2003 Final Legislative Report

Fifty-eighth Washington State Legislature

2003 Regular Session
2003 First and Second Special Sessions

View from Mount Elinor to Mount Rainier.

Cover: Background photo is Mount Rainier.

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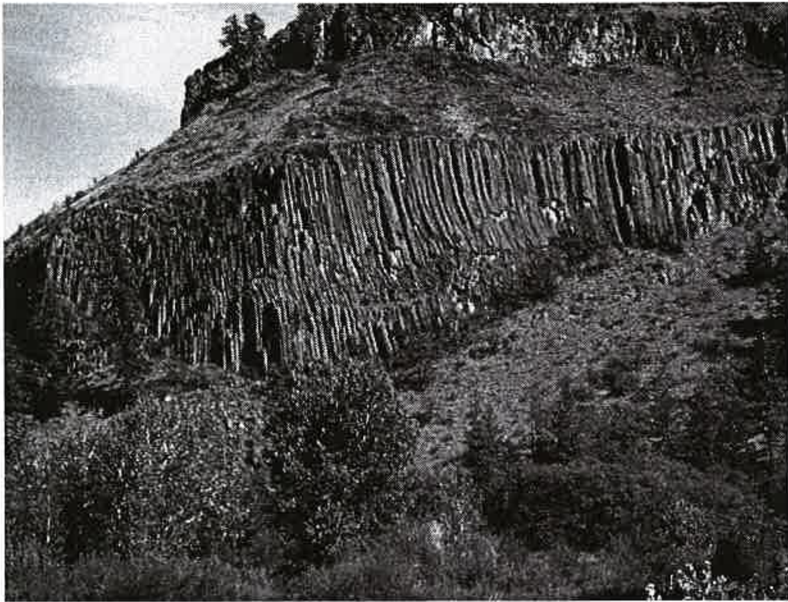
Titon Valley, Columnar Basalt Flows located in Yakima County.

Fifty-eighth Washington State Legislature

2003 Regular Session
2003 First Special Session
2003 Second Special Session

The Geology of Washington

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

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

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

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

The section pages throughout this book feature some of the geological wonders of a few of these provinces.

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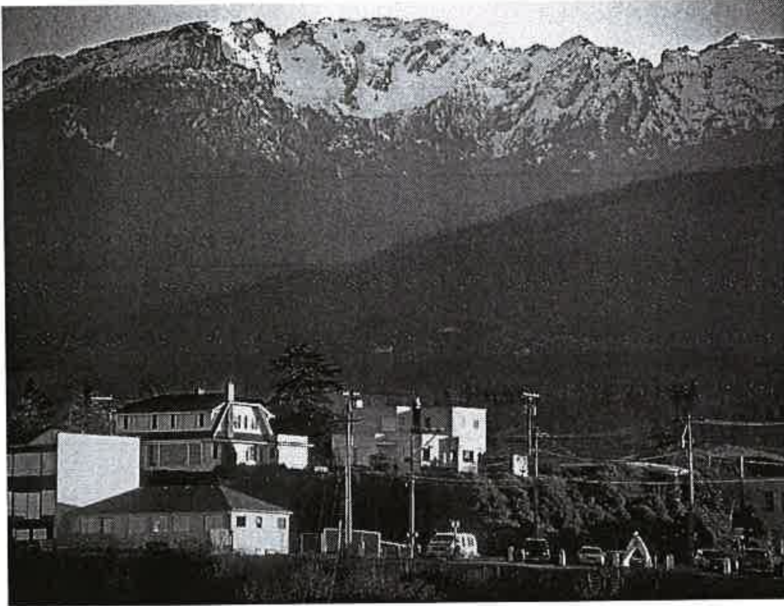

Hurricane Ridge rising above Port Angeles suburbs.

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Olympic Mountains

The Olympic Mountains are located in the northwest corner of the state on the Olympic Penninsula which is known for its spectacular mountains, lush rain forests and pristine coastlines. This peninsula is bordered by the Pacific Ocean to the west, the Strait of Juan de Fuca to the north, Hood Canal to the east and the lowlands of Grays Harbor Basin to the south. Though reaching a height of only about 8,000 feet, they ascend almost from water's edge and effectively wring precipitation out of moisture-laden air masses from the ocean.

Throughout the Oligocene and early Miocene periods continental sediment was washed into the ocean near the Olympic Peninsula. Eventually this sediment was compressed into shale and sandstone. Also, underwater volcanic activity formed huge mountains. The resulting plate moved toward North America about 35 million years ago. The major portion of it was subducted below the continental land mass but a part was skimmed off and crammed into the mainland forming the origins to today's Olympics.

These rock formations have since been folded, fractured and over-turned. The forces of flowing water, ice sheets and alpine glaciers have carved into this formation further enhancing the craggy appearance of the Olympic Mountains as we know them today. Sheets of glaciers carved out the Strait of Juan de Fuca and Puget Sound which isolated the Olympics from the nearby land mass.

Statistical Summary

2003 Regular Session of the 58th Legislature, 2003 First Special Session (May 12 – June 10), 2003 Second Special Session (June 11)

Bills Before Legislature	Introduced	Passed Legislature	Vetoed	Partially Vetoed	Enacted
2003 Regular Session (January 13 - April 27)					
House	1,281	239	5	18	234
Senate	1,082	180*	3	10	177
2003 First Special Session (May 12 - June 10)					
House	13	14	0	0	14
Senate	16	14	0	3	14
2003 Second Special Session (June 11 - June 11)					
House	2	1	0	0	1
Senate	1	3	0	1	3
TOTALS	**2,395**	**451**	**8**	**32**	**443**

Initiatives, Joint Memorials, Joint Resolutions and Concurrent Resolutions Before Legislature	Introduced	Filed with the Secretary of State
2003 Regular Session (January 13 - April 27)		
House	45	4
Senate	54	7
2003 First Special Session (May 12 - June 10)		
House	1	0
Senate	0	0
2003 Second Special Session (June 11 - June 11)		
House	0	0
Senate	0	0
TOTALS	**100**	**11**
Initiatives	**2**	**2**

Gubernatorial Appointments	Referred	Confirmed
2003 Regular Session (January 13 - April 27)	193	83
2003 First Special Session (May 12 - June 10)	1	0
2003 Second Special Session (June 11 - June 11)	0	0

* Includes Senate override of SSB 5240

The Mima Mounds Natural Area Preserve located south of Olympia. A popular theory is that this pimply surface was created by the effects of retreating glaciation.

Section I
Legislation Passed

Numerical List
Initiatives
House Bill Reports and Veto Messages
House Memorials and Resolutions
Senate Bill Reports and Veto Messages
Senate Memorials and Resolutions
Sunset Legislation

Puget Lowland

The physiographic province known as the Puget Lowland lies between the Olympic Mountains and the Willapa Hills to the west and the Cascade Range to the east. It is bordered on the north by the San Juan Islands.

The Puget Lowlands are subject to earthquakes due to subduction of the oceanic Juan de Fuca plate under western Washington and the subsequent creation of fault lines in the area.

There are several different plates which now lie beneath the Puget Lowlands. Some are only portions of plates which have migrated from other parts of the world, which helps explain the variances in geologic aspect in the area.

The most recent of several continental ice sheets to cover the Puget Lowland during the Quaternary was the Fraser ice sheet. It peaked about 14,000 years ago and advanced from British Columbia to just south of Olympia. The ice was approximately 1,000 ft. thick at Olympia, 3,000 ft. thick at Seattle and 5,000 ft. thick at Bellingham at this time.

When the Fraser ice sheet retreated, a sculpted landscape covered by glacial drift was exposed. The waterways and river drainages presently existing in this area were formed by the pattern of Fraser glacial erosion and deposition.

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Numerical List

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I 776
C 1 L 03

License tab fees.

By People of the State of Washington.

Background: Generally, motor vehicle owners must pay an annual $30 license tab fee to license their vehicles to lawfully operate the vehicles on public highways. In lieu of the license tab fee, owners of certain trucks, buses, and for hire vehicles must pay a gross weight fee pursuant to a statutory schedule based on the vehicle's gross weight.

In addition to vehicle license tab fees and gross weight fees, certain local transit agencies were permitted to impose a local motor vehicle excise tax (MVET), to be credited against the state's MVET, for the purpose of funding public transportation systems. This provision was repealed by the Legislature during the 2002 session (C 6 L 02).

Prior to the passage of Initiative Measure 776, certain local transit agencies, including regional transit authorities, were permitted to impose a local MVET in addition to the state's MVET, subject to voter approval, for the purpose of funding high-capacity transportation systems. Counties and certain cities were also permitted to impose an additional local vehicle license fee of up to $15 for transportation purposes.

Summary: The Initiative clarifies that license tab fees are required to be $30 per year for motor vehicles. Light trucks (trucks with a gross weight up to 8,000 pounds) are subject to a gross weight fee of $30.

The following local taxes and fees are repealed: (1) the local transit MVET that was credited against the state MVET; (2) the additional local MVET for high-capacity transportation systems; and (3) the additional local vehicle license fee.

A legislative intent section was enacted stating that if the repeal of the additional local MVET affects any bonds issued for light rail projects, the expectation is that transit agencies will retire those bonds using reserve funds including accrued interest, sale of property or equipment, new voter approved tax revenues, or any combination of these revenue sources. Additionally, transit agencies are encouraged to put another tax revenue measure before voters if they want to continue with a light rail system dramatically changed from that previously approved by voters.

Effective: December 5, 2002. In February 2003, the King County Superior Court enjoined, in its entirety, enforcement of Initiative 776 on the grounds that it contained more than one subject, failed to identify certain subjects in the title, and impaired certain contractual obligations. Subsequently, the Washington Supreme Court accepted direct review of the case and heard oral arguments on June 26, 2003. A decision is pending.

I 790
C 2 L 03

Law enforcement, fire fighters' retirement system.

By People of the State of Washington.

Background: The Law Enforcement Officers' and Fire Fighters' Retirement System, Plan 2 (LEOFF 2) is governed by the Joint Committee on Pension Policy (JCPP) and the Pension Funding Council (PFC). The PFC adopts the economic assumptions used by the State Actuary and recommends contribution rates for the various pension systems. The JCPP is responsible for studying pension policy issues and making recommendations to the Legislature.

The JCPP is comprised of eight state Senators and eight state Representatives. The membership of the PFC consists of the directors of the Department of Retirement Systems and the Office of Financial Management, the chair and ranking minority member of the House of Representatives Appropriations Committee, and the chair and ranking minority member of the Senate Ways and Means Committee.

Summary: A board of trustees is established to govern LEOFF 2 in place of the JCPP and the PFC. The LEOFF 2 board consists of three active law enforcement officers who belong the plan, three active fire fighters who belong the plan, three representatives of LEOFF 2 employers, one state Representative, and one state Senator. Beginning in 2007, one of the active law enforcement officer representative positions will be replaced by a retired officer position and one of the active fire fighter positions will be replaced by a retired fire fighter position.

All members of the LEOFF 2 board are appointed by the Governor. The member representatives must be chosen from lists submitted by the state councils of law enforcement officers and fire fighters. The legislative members must be chosen from lists submitted by the Speaker of the House of Representatives and the Majority Leader of the Senate.

The LEOFF 2 board is responsible for choosing the economic assumptions, actuarial methods, and contribution rates for the plan in consultation with and actuary retained by the board. The actuary retained by the board must use the aggregate actuarial cost method or other recognized actuarial method based on the principle of funding benefits with level percentage of payroll. The actuary retained by the board must provide his or her analysis to the State Actuary, and if the two do not agree, a third independent enrolled actuary is jointly chosen by the board actuary and the State Actuary to resolve the differences.

The operating expenses of the LEOFF 2 board must be paid from the earnings on the LEOFF 2 retirement funds, incorporated into the calculated cost of the plan as a whole.

In addition to creating the LEOFF 2 board, I 790 also establishes a new funding rule for the plan. This rule requires that "all earnings of the trust in excess of the actuarially assumed rate of investment return shall be used exclusively for additional benefit for members and beneficiaries." Additional benefits are defined as benefits not offered to plan members as of July 1, 2003. These new benefits are adopted by the LEOFF 2 board, with the Legislature having an opportunity to reject them.

Effective: December 5, 2002 (Section 11)
July 1, 2003

ESHB 1001

C 213 L 03

Revising voyeurism laws.

By House Committee on Judiciary (originally sponsored by Representatives Lantz, Chase, Ruderman, Fromhold, Dickerson, Conway, Schindler, Veloria, O'Brien, Kenney, Campbell, Nixon and Darneille).

House Committee on Judiciary
Senate Committee on Judiciary

Background: In 1998 the Legislature created the new crime of voyeurism. A person commits voyeurism if the person views, photographs, or films a person without his or her consent, if done for the purpose of arousing or gratifying the sexual desire of anyone and when the person viewed is in a place where he or she would have a reasonable expectation of privacy.

The definition of a place of reasonable expectation of privacy has two components:

- a place where a reasonable person would believe he or she could disrobe without being photographed or filmed; or
- a place where a person can reasonably expect to be safe from casual or hostile intrusion or surveillance.

The voyeurism statute was recently interpreted by the Washington Supreme Court (Court) in the case *State v. Glas*. The *Glas* case involved the consolidation of two cases, both of which involved the conviction of men who photographed or videotaped under the skirts of unsuspecting women in public places.

The Court in *Glas* ruled that the voyeurism statute, as written, does not cover voyeuristic acts that take place in a public place. The Court noted that the statute's definition of a place of reasonable expectation of privacy focuses entirely on the location of the person, not a part of the person's body or the nature of the conduct. The second part of the definition of place of reasonable expectation of privacy is any place where a person can reasonably expect to be free of casual or hostile intrusion or surveillance. The Court held that since casual intrusions and surveillance happen all the time when people go into public places, public places cannot fit into the statute's definition of a place where a person can have a reasonable expectation of privacy.

Summary: The crime of voyeurism is amended to apply to a person who, for the purpose of arousing or gratifying the sexual desires of anyone, knowingly views, photographs or films the intimate areas of another person, without that person's knowledge and consent and under circumstances where that person has a reasonable expectation of privacy, whether in a public or private place. "Intimate areas" means the portion of a person's body or undergarments that is covered by clothing and intended to be protected from public view.

The Court may order the destruction of any photographs, films, digital images, videotapes or other images that were taken by a person convicted of voyeurism.

Votes on Final Passage:

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

Effective: May 12, 2003

ESHB 1002

PARTIAL VETO

C 260 L 03

Reducing the release of mercury into the environment.

By House Committee on Fisheries, Ecology & Parks (originally sponsored by Representatives Hunt, Berkey, Cooper, Romero, Linville, Chase, Kagi, Wood, Simpson, Morrell, Rockefeller, Ruderman, Fromhold, Dickerson, Conway, Kessler, Cody, Jarrett, Veloria, O'Brien, Campbell, McDermott, Clibborn, Sullivan, Nixon, McIntire, Lantz, Moeller and Hudgins).

House Committee on Fisheries, Ecology & Parks

Background: Mercury has been identified by the United States Environmental Protection Agency (EPA) as being included in a group of chemicals known as persistent bioaccumulative toxins (PBTs). Individuals within this family of toxins are known to break down very slowly when released into the environment and increase in concentration as they move up the food chain.

The 2000 Legislature directed the Department of Ecology (DOE) to develop a proposed long-term strategy to address PBTs in Washington, which was presented to the Legislature in 2001. The 2001 Legislature appropriated $800,000 from the State Toxics Control Account specifically for the implementation of the strategy. Both the DOE and the EPA have identified mercury as the number one PBT priority.

During the 2002 session, the Legislature earmarked the $800,000 for the DOE to develop a chemical action plan for mercury. In doing so, the Legislature provided the DOE with specific directions as to how the plan should be developed. These directions were intended to serve as a model for the development of future chemical action plans for other PBTs. The mercury action plan is required to, at a minimum:

- identify current uses for mercury in Washington;
- analyze current state and federal regulations and voluntary measures that can be used to reduce mercury;
- identify mercury reduction and elimination options; and
- implement actions to reduce or eliminate mercury uses and releases.

The final mercury action plan was scheduled to be completed in December 2002, with implementation set to begin no later than February 1, 2003. The final plan was directed to outline the actions that the DOE will take, including the development of any new rules or legislative recommendations.

Summary: A new chapter is created in the Revised Code of Washington to regulate mercury and mercury-added products. New regulations include requirements for the labeling of certain mercury-added lamps, prohibitions on the sale of certain mercury-added products, and directions to the Department of General Administration (GA) regarding the purchase of mercury-added products.

Labeling. As of January 1, 2004, all fluorescent lamps and lamp packaging manufactured after November 20, 2003, must be specifically labeled if they contain mercury. The label on the lamp must bear the international chemical symbol for mercury, and the packaging label must clearly inform the consumer that the lamp contains mercury, explain that the lamp must be disposed of according to state, local, and federal laws, and provide a toll-free phone number and Internet address where disposal information can be obtained. The primary responsibility for labeling a mercury-added lamp belongs to the manufacturer. If a lamp is labeled in a way that meets the requirements of another state, the manufacturer is exempt from Washington's labeling requirement.

Sale Prohibitions. The sale of certain mercury-containing products is prohibited. As of January 1, 2006, the sale of mercury-added novelties and mercury-containing thermometers and manometers is prohibited. The manufacturers of these products are required to notify all retailers about the prohibition and provide information about the proper disposal of remaining inventory.

Mercury-added novelties are products intended mainly for personal or household enjoyment or adornment. They include figurines, toys, games, cards, ornaments, jewelry, apparel, and other items. The definition expressly excludes games and toys that require certain batteries or liquid crystal display screens.

The prohibition on the sale of thermometers and manometers that include mercury does not apply to certain types of instruments. The exempt items include thermometers with a button-cell battery, thermometers used for food research or food processing, thermometers that are used in an animal agricultural climate control system, veterinary medicine, or an industrial measurement system, thermometers and manometers used for the calibration of other thermometers or equipment, prescription thermometers, and manometers used for blood pressure measuring. In addition, the prohibition on the sale of thermometers and manometers does not extend to hospital-controlled facilities that have adopted a mercury reduction plan.

A prohibition on the sale and installation of certain mercury-containing thermostats and motor vehicles containing an automotive mercury switch takes effect on January 1, 2006. Items that are prohibited from sale are

still allowed to be transported through the state or stored within the state for later distribution elsewhere.

State Agency Directions. By January 1, 2005, the GA must revise its rules and policies to give preference and priority to the purchase of items that do not contain mercury. The GA may only purchase mercury-containing products if there is no economically feasible non-mercury alternative or if the mercury-containing product is engineered to reduce electricity consumption by at least 40 percent. If there is not a substitute to a mercury-containing product available, the GA must give preference to products that contain the least amount of mercury necessary for the required performance.

The DOE is authorized to participate in clearinghouses to assist it in implementation of the mercury regulations. These clearinghouses may also be used for examining label requirements, developing public education, and maintaining a list of all mercury-added products. The DOE is also directed to petition the EPA for the creation of a permanent mercury repository.

The Department of Health is required to develop an education plan for schools, local governments, businesses, and the public on the proper disposal methods for all bulk elemental mercury compounds. In addition, schools, by 2006, will be prohibited from purchasing elemental mercury and must remove and dispose of any mercury used in science classrooms.

Any fiscal impacts of these provisions on the DOE must be paid for by funds appropriated from the State Toxics Control Account for the implementation of the DOE's PBT strategy.

Penalties. A violation of the new chapter regulating mercury is punishable by a civil penalty not to exceed $1,000 for each violation. Repeat violators may be assessed a fine of up to $5,000. All fees collected are deposited into the State Toxics Control Account.

Votes on Final Passage:

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

Effective: July 27, 2003

Partial Veto Summary: The Governor vetoed the intent section, which stated that fish caught in Washington waters were safe to eat and should be protected from any degrading influence.

VETO MESSAGE ON HB 1002-S

May 14, 2003

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

Ladies and Gentlemen:

I am returning herewith, without my approval as to section 1, Engrossed Substitute House Bill No. 1002 entitled:

"AN ACT Relating to mercury reduction and education;"

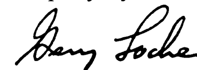
This bill provides protection for our environment and for the people of our state from potential contamination by mercury, a chemical so toxic that 1/20th of a teaspoon can contaminate a 20- acre lake to the point where fish cannot be consumed. There is an estimated 1,000 pounds of mercury disposed of in our state every year. This bill will enable us to reduce the public health threat posed by this chemical.

Unfortunately, the intent section of this bill states, without qualification, that fish caught in our region are safe to eat. In fact, our Department of Health has issued thirteen fish consumption advisories for a variety of species of fish in waters around the state. These advisories demonstrate that contamination of our waters is still a serious issue. We need to address these sources of contamination and prevent them, rather than assert they do not exist. This bill is a dramatic example of how we can step-up to our obligations and prevent mercury from entering our environment, threatening human health and the health of our wildlife.

For this reason, I have vetoed section 1 of Engrossed Substitute House Bill No. 1002.

With the exception of section 1, Engrossed Substitute House Bill No. 1002 is approved.

Respectfully submitted,



Gary Locke
Governor

2SHB 1003

PARTIAL VETO

C 403 L 03

Establishing the investing in innovation grants program.

By House Committee on Appropriations (originally sponsored by Representatives Morris, Linville, Wood, Anderson, O'Brien and Sullivan).

House Committee on Technology, Telecommunications & Energy
House Committee on Appropriations
Senate Committee on Technology & Communications

Background: Several factors are necessary to produce a desirable environment for a strong biotechnology and technology industry. Washington State and the Seattle area have been in a strong position to attract and retain technology companies. The State's strong technology research capability and an existing technology industry infrastructure are factors that are noted when compared to other areas.

Technology research is funded by a variety of sources. Basic biomedical research is funded by the National Institutes of Health. Pharmaceutical companies and their investors fund applied research and commercialization of new medicines and medical technologies. The U.S. Department of Energy provides funds for research in energy technology.

The Washington Technology Center (WTC) facilitates collaboration between the state's research universities and the technology industry. Its mission is to assist Washington companies in overcoming the technical challenges of product development by linking them with the scientific and engineering resources of the state's

universities. The WTC is administered by a board of directors (Board) appointed by the Governor that includes 14 industry members, eight university members and four ex officio members. Included in its duties are establishing priorities for the selection and funding of research projects as well as approving and allocating funding for research projects conducted by the WTC.

Summary: The Investing in Innovation Grants Program (Program) is established and is administered by the Washington Technology Center (WTC). The Board must develop criteria for grant awards that may be given to qualifying universities, institutions, businesses, and individuals. The Board must also establish a competitive process for awarding grants, including a peer review process involving board members, scientists, engineers and individuals with specific recognized expertise.

The WTC must make periodic strategic assessments of state investments in research and technology that will likely create jobs and business opportunities and produce long-term improvements to health and the lives of the state's citizens. These assessments are used to guide the awarding of research and commercialization grants.

In awarding grants, the Board must give priority to those proposals that leverage additional public and private funds. The Board must seek to balance research and commercialization grants.

Not more than 1 percent of available funds may be used to administer the Program.

The Investing in Innovation Account (Account) is created. The Account is non-appropriated and the interest earned on the money in the Account is retained by the Account. Up to 50 percent of available funds from this Account may be used to support commercialization opportunities.

The Board must establish benchmarks for the Program and periodically review the Program. The Board must report findings of Program reviews to appropriate standing committees of the Legislature.

Votes on Final Passage:

House	81	13	
Senate	48	0	(Senate amended)
House	87	10	(House concurred)

Effective: July 27, 2003

Partial Veto Summary: The Governor vetoed the provisions creating the Investing in Innovation Account.

VETO MESSAGE ON HB 1003-S2

May 20, 2003

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, Second Substitute House Bill No. 1003 entitled:

"AN ACT Relating to investing in technology and biotechnical research and technology transfer;"

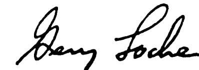
This bill establishes the Investing in Innovation Grants Program, which will enable the state to make investments in research and technology that will create jobs and business opportunities.

Section 3 of the bill would have created an account to be spent directly by the Washington Technology Center, which is a private non-profit organization, not a state agency. Since the Washington State Constitution provides that only public agencies may spend funds directly from a state account, I have vetoed section 3.

For this reason, I have vetoed section 3 of Second Substitute House Bill No. 1003.

With the exception of section 3, Second Substitute House Bill No. 1003 is approved.

Respectfully submitted,



Gary Locke
Governor

ESHB 1009

C 365 L 03

Prohibiting sale of violent computer and video games to minors.

By House Committee on Juvenile Justice & Family Law (originally sponsored by Representatives Dickerson, Delvin, Skinner, Kagi, Chase, Wood, Sommers, Miloscia, Conway, Cody, O'Brien, Kenney, Schual-Berke, McDermott and Lovick).

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

Background: Video games may include store-bought games, computer games downloaded from the internet, and hand-held game players. These games are a major industry and are very popular. The video games have become increasingly realistic and interactive. Many video games involve coordination and strategy and may have educational uses. Some video games have been criticized for their use of violence.

Some video games are rated by the Entertainment Software Rating Board (ESRB). The ESRB is an independent, self-regulatory entity supported by the entertainment industry which provides ratings for software titles, websites, and on-line games. The ratings are located on the front of the game packaging. There are six ratings: "Early Childhood," "Everyone," "Teen," "Mature," "Adults Only," and "Rating Pending."

Several states and municipalities have attempted to regulate minors' access to materials with violent themes. These laws and ordinances have faced constitutional challenges based on the First Amendment. The U.S. Supreme Court has not addressed the issue of restricting a minors' access to violent materials. Therefore, there is no definitive ruling from the U.S. Supreme Court that governs what states must do when regulating this type of material.

While there is no definitive ruling from the U.S. Supreme Court, one court has recently upheld a county ordinance which restricts the sale of violent video games to minors. The court found that the First Amendment does not apply to video games because they are games and not speech. The First Amendment only protects speech. The court further found that even if video games were considered speech, the ordinance in question would meet the requirements of the First Amendment and would not be unconstitutional.

Several other courts have ruled on cases involving restrictions on minors' access to materials with violent themes. In most of these cases, the statutes and ordinances which have attempted to regulate this type of material have been found to be unconstitutional. These courts found that this material is protected under the First Amendment.

When a court finds that materials are protected speech under the First Amendment, the court carefully scrutinizes the statute or ordinance that attempts to restrict such speech. To be found constitutional, a statute or ordinance restricting protected speech must be narrowly tailored to advance a compelling governmental interest. Some of the courts that have considered these types of statutes and ordinances have found them to be too broad, so that it is difficult to determine what type of video is being targeted by the law. Other statutes or ordinances have been struck down because the court found the government lacked proof that the ordinance was necessary to advance a compelling governmental interest. These courts found that there was not sufficient research showing the violent material caused harm to minors.

Summary: The Legislature finds that there is a compelling interest in curbing hostile and antisocial behavior in youth and fostering respect for public law enforcement officers. Retailers and parents are encouraged to utilize the industry rating system for video games.

It is a class I civil infraction for a retailer to sell, rent, or permit to be sold or rented, a violent video or computer game he or she knows to be a violent video or computer game to a minor under the age of 17. This class I civil infraction is punishable by a fine of up to $500.

A violent video or computer game is defined as a video or computer game which contains realistic or photographic-like depictions of aggressive conflict in which the player kills, injures, or otherwise causes physical harm to a human form which appears to be a law enforcement officer.

Votes on Final Passage:

House	81	16
Senate	42	7

Effective: July 27, 2003

EHB 1010

C 106 L 03

Changing provisions relating to discharge of a minor from a mental health facility.

By Representatives Dickerson, Delvin, Kenney, Sullivan and Darneille.

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

Background: Under the common law, a minor could not consent to medical or surgical treatment. A physician was obliged to obtain the consent of the child's parents or responsible person before providing treatment. The only acceptable exception was if there was an emergency and it was either impracticable to obtain parental consent or any delay would unduly endanger the minor's life.

The Legislature has modified this common law approach by allowing treatment of minors without parental consent under certain circumstances. One of the occasions when a minor may receive treatment without parental consent is if the minor is age 13 or older and consents to inpatient mental health treatment. The minor may be admitted and treated in an inpatient mental health facility without parental consent.

If the minor, age 13 or older, consents and is voluntarily admitted into an inpatient mental health facility, the minor may request to leave the facility at any time. The professional person at the facility must release the minor as soon as he or she receive the minor's written notice of intent to leave the facility.

Summary: When a minor who has consented to inpatient mental health treatment gives notice of intent to leave the facility, the minor must be released by the second judicial day following the receipt of the minor's notice of intent to leave the facility.

Votes on Final Passage:

House	97	0
Senate	47	0

Effective: July 27, 2003

SHB 1028

C 285 L 03

Authorizing research to identify programs proven effective at preserving families and reducing crime committed by youth.

By House Committee on Juvenile Justice & Family Law (originally sponsored by Representatives Dickerson, Delvin, Kagi, O'Brien, Kenney and Upthegrove).

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

Background: The Joint Legislative Audit and Review Committee (JLARC) is a statutorily created committee of eight senators and eight representatives, equally divided between the two major political parties. The JLARC staff conducts performance audits, program evaluations, sunset reviews and other policy and fiscal studies. The JLARC may examine issues, hold hearings, make findings, report to the Legislature, and conduct any other business relating to the efficiency and effectiveness of state government.

The Washington State Institute for Public Policy (WSIPP) is a research organization created by the Legislature to provide nonpartisan research at legislative direction on issues of importance to Washington. In May 2001, the WSIPP published its report, The Comparative Costs and Benefits of Programs to Reduce Crime, which focused on the economics of various nationwide programs designed to reduce criminal behavior in adults and juveniles.

Summary: The JLARC is required to, among other things, review and analyze research, including research conducted by the WSIPP, to identify cost-effective programs that preserve families and reduce juvenile crime. The JLARC must report on the costs, benefits, and outcomes of identified programs that local jurisdictions in the state have successfully implemented. The JLARC must also report options for financial and other incentives designed to encourage local government investment in cost-effective programs. Among the incentives that may be considered are those that reimburse local jurisdictions for a portion of the savings that accrue to the state. The JLARC must submit an interim report to the Legislature by September 1, 2004, and a final report by September 1, 2005.

Votes on Final Passage:

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

Effective: July 27, 2003

ESHB 1033

FULL VETO

Clarifying the restrictions concerning occupational licenses.

By House Committee on Judiciary (originally sponsored by Representatives Kirby, Cooper, Sullivan and Lantz).

House Committee on Judiciary
Senate Committee on Judiciary

Background: Occupational Licenses. Under prescribed circumstances, a person whose driver's license has been suspended or revoked may get an "occupational" license. Such a license is for the purpose of allowing the person to work or, in some instances, to get training or to get treatment for substance abuse.

The authority to drive under such a license is limited to driving that is directly related to employment, training or treatment. The license must be accompanied by specific detailed restrictions on the hours of the day when driving is allowed and by a general description of the permitted routes for traveling to and from work or treatment. An occupational license is good for either the length of the suspension or revocation, or for two years, whichever is shorter.

There are two main categories of persons who may apply for an occupational license. One is persons who have had their licenses suspended by the Department of Licensing (DOL) for one of three specified reasons. These reasons include:

- failure to pay a traffic ticket; or
- driving without insurance; or
- committing multiple driving offenses with a frequency that indicates a disrespect for traffic laws or a disregard for the safety of others.

A person who has had his or her license suspended for one of these three reasons may apply to the DOL for an occupational license if he or she:

- is in an apprenticeship or training program that requires a license; or
- has applied for such a program (in which case an occupational license will be good for only 14 days); or
- is enrolled in a WorkFirst program that requires a license; or
- is undergoing substance abuse treatment or attending substance abuse meetings and does not have transit services available to get to and from the treatment or meetings.

The other main category of persons who may apply for an occupational license includes those who have lost their licenses because of a drunk driving related offense. The loss may have been the result of conviction for driving under the influence (DUI) or the result of administrative action following an arrest for DUI.

Any applicant for an occupational license must meet certain requirements, including having insurance coverage or otherwise showing proof of financial responsibility.

If the reason for the loss of license was failure to pay a fine, then the applicant must also enter into a payment plan with the court in order for the DOL to issue an occupational license. Some otherwise qualified applicants may be unable to get occupational licenses if the court does not have a payment plan.

Payment Plans. Traffic law offenses, whether civil or criminal, may result in fines being imposed against offenders. In a significant number of cases where fines have been imposed, offenders fail to make timely pay-

ment of those fines. Failure to pay fines results in the suspension of an offender's driver's license.

Most of the less serious traffic offenses are civil rather than criminal. These civil violations are punishable by monetary fines only and are handled by the issuance of a notice of traffic infraction. The person receiving the notice of infraction may either pay the fine or request a hearing to contest the notice or to present mitigating circumstances. If the person has failed to pay the fine or fails to appear at a requested hearing, the court will enter an order assessing the monetary penalty for the traffic infraction. Monetary penalties imposed by the court for traffic infractions are payable immediately. If the person is unable to pay, the court may grant an extension. If payment is still not made within the granted time, the court must notify the Department of Licensing, and the DOL must suspend the person's driver's license until the penalty is paid. For traffic infractions, the court may waive, reduce, or suspend the penalty. At the person's request, the court may also order performance of a number of hours of community restitution in lieu of a monetary penalty, with the penalty amount being credited at the rate of the current state minimum wage.

More serious violations of the traffic laws, such as reckless driving, drunk driving, or driving with a suspended license, are crimes. Crimes are typically punishable by both imprisonment and a fine. When a person is arrested for a criminal violation of the traffic laws, the arresting officer may serve the person with a traffic citation and notice to appear in court. The person must give his or her written promise to appear in court as required by the citation and notice. If the person violates the written promise to appear in court, the court must give notice of that fact to the DOL. Upon receipt of the notice, the DOL suspends the person's driver's license for failing to appear in court as required by the citation and notice.

Many, but not all, courts offer payment plans for offenders who are unable to pay fines in full at the time they are due. These plans allow such an offender to pay the fine in installments over time. In the case of infractions, a plan may require community restitution instead of fines.

Summary: Occupational Licenses. The following changes are made with respect to the issuance of occupational licenses to applicants who have lost their licenses due failure to pay a fine or failure to have insurance, or due to administrative action by the DOL based on multiple traffic law violations:

- Being gainfully employed allows a person to apply for an occupational license.
- Failure to be in a payment plan no longer disqualifies an applicant who has lost his or her license for failure to pay a fine.
- Subject to the court's discretion, a court must offer a payment plan to any applicant who has lost his or her license for failure to pay a fine.
- No person may apply for an occupational license if he or she has previously entered into a payment plan for traffic fines and has failed to make all payments required under the plan.

With respect to applicants for an occupational license who have lost their licenses for DUI-related reasons, installation of an ignition interlock is required on any vehicle to be driven by the applicant.

Payment Plans for Traffic Infraction Fines. All courts are required to have available an 18 month payment plan for payment of fines for traffic infractions. Courts have discretion to allow offenders to enter into such plans if the person: (1) cannot pay a fine in full when it is imposed; (2) has an outstanding unpaid penalty that was imposed not more than 12 months previously; or (3) is already in a payment plan for another fine. If an offender is already in a payment plan when he or she has a new fine imposed, a court may incorporate the existing payment plan into a single new plan or may create a separate plan for the new offense. If an existing unpaid fine has been turned over to a collection agency, the court may remove the fine from collection and incorporate it into a payment plan.

The court's notification to the DOL of an unpaid fine is to occur upon a person's: (1) failure to enter an offered payment plan; (2) delinquency of 30 days in making a payment under a plan; or (3) failure to make all payments under a plan within 18 months of the first payment. Upon receipt of such a notification, the DOL is to suspend the person's driver's license.

Payment Plans for Criminal Traffic Fines. Whenever a misdemeanor traffic crime results in a penalty that is monetary only, the court may enter into a payment plan with the offender. Once a person is in a plan, the court is to notify the DOL of the person's failure to pay the fine only if the person is 30 days delinquent in a payment or if the person has not completed payments under the plan within 18 months.

Votes on Final Passage:

House	97	0	
Senate	49	0	(Senate amended)
House			(House refused to concur)
Senate	48	0	(Senate amended)
House	98	0	(House concurred)

VETO MESSAGE ON HB 1033-S

May 20, 2003

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 Substitute House Bill No. 1033 entitled:

"AN ACT Relating to driver's licenses;"

This bill would have expanded eligibility for occupational drivers' licenses, to include drivers who have lost licenses for failure to pay fines, but need to drive to go to work and pay the fines. If a driver lost his or her license for drunk driving, the bill would have conditioned the occupational license on using an ignition interlock. The bill would have also required courts to offer payment plans to drivers who cannot pay fines immediately, allowing up to eighteen months to pay. A driver whose debt is more than one year old would not have been eligible to enter into such a plan.

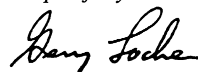
I support the bill's basic policy goals to enable more drivers to retain or restore their licenses by enabling them to pay their fines and get insurance through use of an occupational driver's license. I support court-sponsored license reinstatement programs, payment plans, and similar efforts to help restore driving privileges for those who lose them because of inability to pay rather than dangerous driving behavior. Such initiatives also improve collections of fines, providing needed revenue to local governments.

Unfortunately, the Legislature failed to appropriate the needed funding to the Department of Licensing to implement section 1, expanding eligibility for occupational drivers' licenses. This funding, estimated at $2.6 million in the 2003-05 biennium, was not included in the enacted transportation budget or the proposed Senate and House operating budgets. Application fees would provide the necessary revenue to cover the cost, but without an appropriation, the revenue cannot be spent to process the applications. If the Legislature enacts section 1 in another bill, and provides the necessary funding to implement it, I will sign it into law.

Sections 2 and 3 are intended to require that courts offer payment plans to those who need time to pay traffic fines and accrued interest. Unfortunately, Section 2 includes language limiting eligibility for such plans to people who are less than one year in arrears on such debts, and both sections include language limiting the duration of payment plans to 18 months. These provisions would make payment plans unavailable to many of those who need them most to meet their obligations. They would reduce the effectiveness of license reinstatement programs now sponsored by courts in several counties and cities, making worse the problem that the bill seeks to remedy. Court managers, local governments, defense attorneys, collection agencies, and the chair of the committee that originally considered the bill have all asked me to veto these two sections.

For these reasons, I have vetoed Engrossed Substitute House Bill No. 1033 in its entirety.

Respectfully submitted,



Gary Locke
Governor

SHB 1036
C 369 L 03

Modifying subagent authority to process mail-in vehicle registration renewals.

By House Committee on Transportation (originally sponsored by Representatives Hatfield, Woods, Simpson, Cooper, Rockefeller and Mielke).

House Committee on Transportation
Senate Committee on Highways & Transportation

Background: A Washington vehicle owner can use the Internet to renew his or her license tabs. There are two ways to receive tabs: have them mailed or pick them up at a county auditor or subagent office chosen by the customer. If a person chooses to have them mailed, the information is sent to the county auditor's office and that office processes all mail requests.

Replacement plates cannot be requested through the Internet. A person must go to his or her county auditor or subagent to purchase replacement plates or must send his or her renewal to the county auditor for mail out. The Department of Licensing is planning to offer replacement plates through the Internet and hopes to have the option available July 2003.

Summary: Subagents are given authority to mail out license tabs if chosen by the customer when renewing his or her vehicle registration through the Internet. Subagents are also given the authority to mail out replacement plates to Internet customers when that option becomes available. This authority includes being reimbursed for the cost of postage to mail out the replacement plates.

The Department of Licensing is required to provide notice to Internet customers on the web page that lists each department, county auditor, and subagent office that additional fees will be collected for services provided by subagents.

Votes on Final Passage:

House	96	0	
Senate	36	12	(Senate amended)
House	97	0	(House concurred)

Effective: October 1, 2003

EHB 1037
C 120 L 03

Exempting retail sales of food and beverages from the litter tax that are consumed indoors on the seller's premises.

By Representatives Gombosky, Cairnes, Linville, Wood, Mielke, Sullivan and Nixon.

House Committee on Finance
Senate Committee on Ways & Means

Background: A litter tax is imposed on manufacturing, wholesaling, and retailing businesses. The tax is equal to 0.015 percent of the value of products manufactured, or the gross proceeds of products sold, for the following 13 categories of products: food for human or pet consumption; groceries; cigarettes and tobacco products; soft drinks and carbonated waters; beer and malt beverages; wine; newspapers and magazines; household paper and paper products; glass containers; metal containers; plastic or fiber containers; cleaning agents and toiletries; and sundry products of drugstores other than drugs. Revenue from the tax is used for waste reduction, litter control, and recycling programs under the Department of

Ecology.

The litter tax was enacted as part of the Model Litter Control and Recycling Act of 1971. That same year, the Department of Revenue (DOR) issued an Excise Tax Advisory (ETA) that said the litter tax does not apply to sales of food and beverages by retailers for consumption indoors on the seller's premises.

The ETA only exempts on-premises sales by retailers. A wholesaler of food, beverages, and restaurant supplies challenged the ETA. The wholesaler argued that its products should be exempt from litter tax when the products are sold to a retailer for use on the retailer's premises. The DOR denied the wholesaler's request for refund of litter tax on these products. The wholesaler appealed to the Board of Tax Appeals (BTA). On June 18, 2002, the BTA ruled that the ETA was entirely invalid. The BTA found that there was no statutory basis for any on-premises exemption from litter tax and held that the DOR exceeded its authority in issuing the ETA. As a result, not only are wholesalers required to pay litter tax on products for consumption on the premises of retailers, but retailers lost their litter tax exemption for on-premises consumption as well.

Summary: Retail sales of food and beverages that are consumed indoors on the seller's premises are exempt from litter tax. Sales by wholesalers are not exempt.

Votes on Final Passage:

House	94	1
Senate	46	1

Effective: May 7, 2003

HB 1045
C 60 L 03

Modifying water-sewer district bidding provisions.

By Representatives Miloscia, Chandler and Upthegrove.

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

Background: A number of different laws establish procedures for state agencies, local governments, and special purpose districts to award contracts for public works projects and to purchase materials, supplies, equipment, and services. Requirements vary, but generally a contract for a relatively small dollar value may be awarded without following a competitive bidding procedure, while a contract of a relatively medium or high dollar value must be awarded following some sort of competitive bidding procedure.

Procedures to award a contract of relatively medium dollar value are called a "small works roster" procedure, if the contract is for a public works project, or a "vendor list" procedure, if the contract is for purchases of materials, supplies, and equipment. Frequently, bid solicitations using these procedures require soliciting bids from only a limited number of contractors or vendors on the list and include some sort of requirement to equitably distribute the opportunity to bid on proposals.

Procedures for awarding a contract of a relatively high dollar value must be made using formal competitive bidding requirements, including publishing a request for the submission of sealed bids and the opening of the sealed bids at a specified time and place.

For water-sewer districts, purchases of materials, supplies, or equipment with an estimated cost of less than $10,000 do not require a contract process. Purchases of materials, supplies, or equipment with an estimated cost between $10,000 and $50,000 allow for use of the small works roster procedure in lieu of formal sealed bidding. Purchases over $50,000 must be completed by contract following a public notice and call for formal sealed bidding.

Summary: An alternative process is established for water-sewer districts to award contracts for purchase of materials, supplies, or equipment with an estimated cost greater than $10,000. Water-sewer districts may let contracts for purchases of materials, supplies, or equipment with suppliers designated on current state agency, county, city, or town purchasing rosters that have been prepared in accordance with applicable competitive bidding laws. The price and terms for purchases must be as described on the roster.

Votes on Final Passage:

House	97	0
Senate	48	0

Effective: July 27, 2003

HB 1052
C 11 L 03

Limiting the liability of certain persons who provide volunteer emergency repairs.

By Representative Nixon.

House Committee on Judiciary
Senate Committee on Judiciary

Background: The "Good Samaritan" law exempts from civil liability those volunteers who provide emergency care in the event of an emergency. The immunity only protects those acting in a voluntary capacity, without compensation or the expectation of compensation. The immunity protects volunteers from liability resulting from negligence, but not from gross negligence or willful or wanton misconduct.

More specific immunities also exist for certain groups providing assistance in the event of an emergency. For example, building wardens have immunity from civil liability for their actions related to evacuating a building or attempting to control a hazard. Like the

Good Samaritan law, this immunity only protects wardens from liability for negligence, not gross negligence or willful or wanton misconduct. Persons assisting in a mine rescue or recovery are also immune from civil liability for actions taken in good faith. This immunity also extends to the employers of those involved in the rescue.

Summary: An immunity from civil liability is created for persons, including construction professionals, who provide emergency construction repairs at the scene of any accident, disaster or emergency without compensation or the expectation of compensation. The immunity only extends to those acts or omissions associated with providing the emergency repairs and does not cover gross negligence or willful or wanton misconduct. The immunity does not cover persons who are making repairs in the regular course of employment and who are being compensated or expecting to receive compensation for the work.

An "accident, disaster or emergency" includes an earthquake, windstorm, hurricane, landslide, flood, volcanic eruption, explosion, fire, or any similar occurrence.

Votes on Final Passage:

House	91	0
Senate	49	0

Effective: July 27, 2003

SHB 1057

C 386 L 03

Creating the license suspension review committee.

By House Committee on Fisheries, Ecology & Parks (originally sponsored by Representatives Hatfield, Buck, Blake and Kessler).

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

Background: A commercial fishing violation is generally punishable as either a misdemeanor, gross misdemeanor, or a felony. Misdemeanor violations are punishable by up to 90 days in jail and a fine of up to $1,000. Gross misdemeanors are punishable by up to one year in jail and a fine of up to $5,000, and felonies can result in a prison sentence of up to 10 years and a fine of up to $20,000.

In addition to criminal sanctions, the Director of the Department of Fish and Wildlife (Department) must suspend all commercial fishing privileges for a person who is convicted of two gross misdemeanors or felonies involving commercial fishing within a five-year period. Suspended licenses may not be transferred or used by an alternate operator. The Department may also issue a life suspension if it finds willful or wanton disregard for the conservation of fish or wildlife.

Commercial fishing licenses must be applied for or renewed by December 31 of each year. However, this deadline does not apply if a license or permit was not renewed because of the death of the license holder. If this occurs, the surviving spouse, estate, or estate beneficiary must be given a reasonable opportunity to renew the license or permit.

Summary: The Director of the Department has discretionary authority to suspend a person's privileges to participate in a particular commercial fishery if that person has been convicted of two or more "qualifying commercial violations" within a three-year period. Suspensions may not exceed one year and a suspended license may not be transferred or used by an alternate operator if the person committing the violations is the license holder, and not an alternate operator. Any suspension is in addition to the criminal penalties attached to the underlying criminal violation.

A commercial fishing violation can be judged as a "qualifying commercial violation" a number of ways; however, all qualifying commercial violations must first be either a gross misdemeanor or a felony. To qualify, certain violations must involve a specific minimum amount of harvested product. For shellfish harvesters, including crab, all qualifying commercial violations must involve at least 50 individual unlawfully harvested shellfish, and those unlawful shellfish must make up at least 6 percent of the total harvest.

For a violation of regulations for fish, other than groundfish and coastal pelagic baitfish, to qualify as a minimum commercial fishing violation, the total weight of the unlawful portion of the harvest must be greater than 6 percent of the total harvest, and the unlawful portion of the harvest must be valued at greater than $250. Violations of groundfish and coastal pelagic baitfish fisheries are considered qualifying violations if the unlawfully harvested individuals total greater than 10 percent of the total catch and are valued at more than $500. Alternatively, for a groundfish or coastal pelagic baitfish species that is categorized as over-fished by the National Marine Fisheries Service, a harvest volume that is greater than 10 percent of the harvest limit allowed by the Department for that fishery is also considered a qualifying violation.

Some violations are considered to be qualifying commercial violations regardless of the amount of product involved. These violations are: fishing without a license, chartering without a license, using unlawful gear or an unlawful method, using a non-designated vessel, fishing at an improper time, participating in a treaty fishery, using illegal nets, and using a commercial vessel for recreational pursuits.

In addition to fishers who have been convicted of two qualifying commercial violations within three years, the Director of the Department may recommend license suspension if one violation is judged by the Director to be of a severe magnitude. The Director may also recommend license suspension for an individual that has been

convicted of a shellfish violation involving 500 or more unlawfully harvested shellfish valued at greater than $2,500, if the quantity of unlawful shellfish totals more than 20 percent of the harvest.

Any commercial fisher that is issued a suspension order from the Director of the Department may appeal that suspension to the License Suspension Review Committee (Committee). The Committee is appointed by the Fish and Wildlife Commission (Commission) and is composed of two Department employees and three commercial fishers from different counties. In addition, the Commission can name up to four alternative members that may vote when one of the regular members is unavailable or has been recused.

The Committee must hear and decide on all appeals within three months, during which time the members can collect information and hear testimony regarding any extenuating circumstances surrounding a violation. The majority decision of the Committee is a recommendation to the Director of the Department, and the Committee may suggest waiving, decreasing, or increasing the suspension length set by the Director.

Fishers that receive a suspension notice from the Director of the Department have 31 days to file an appeal with the Committee. After 31 days the right to an appeal is considered waived and the suspension period commences.

The attorney in fact, guardian, spouse, estate, or beneficiary of a fisher who has died or become incapacitated may renew that fisher's commercial license within 180 days.

Votes on Final Passage:

House	97	0	
Senate	49	0	(Senate amended)
House			(House refused to concur)
Senate	46	0	(Senate amended)
House	91	0	(House concurred)

Effective: July 27, 2003
May 20, 2003 (Section 5)

SHB 1058

C 112 L 03

Addressing educational attainment for foster children.

By House Committee on Children & Family Services (originally sponsored by Representatives Kagi, Boldt, McIntire, Nixon, Dickerson, Fromhold, O'Brien, Lantz, Linville, Kenney, Kessler, Clibborn, Talcott, Simpson and Wood).

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

Background: In 2002 legislation was enacted requiring the Department of Social and Health Services (DSHS), in cooperation with the Office of the Superintendent of Public Instruction (OSPI), to convene a working group to prepare a plan for the Legislature addressing educational stability and continuity for school-age children entering short-term foster care, and assuring that the best interest of the child is a primary consideration in the school placement of a child in short-term foster care.

The DSHS reported to the Legislature on the recommendations developed by the working group in November 2002. The working group's recommendations included the following:

- The Children's Administration (CA) of the DSHS and the OSPI should develop a formal policy statement that maintains foster children in their home school whenever practical;
- Foster parent recruitment priorities should shift to develop more foster homes in school districts with high rates of foster care removal;
- An oversight committee consisting of staff from the CA, the OSPI, and advocacy agencies should be established to develop best practice standards to maintain foster children in their home school whenever practical; and
- The CA and the Administrative Office of the Courts (AOC) should work together to ensure that educational stability is addressed during the shelter care hearing by the local CA social worker and the presiding Judge or Commissioner.

Summary: It is the policy of Washington that, whenever practical and in the best interest of the child, children placed into foster care must remain enrolled in the schools they were attending at the time they entered foster care.

The administrative regions of the DSHS must develop protocols with school districts specifying strategies for communication, coordination, and collaboration regarding the status and progress of foster children placed in the region, in order to maximize the educational continuity and achievement for foster children. The protocols must include methods to assure effective sharing of information consistent with state law concerning the exchange of student information.

The DSHS must establish an oversight committee, composed of staff from the CA, the OSPI, and advocacy agencies, to develop strategies for maintaining foster children in the schools they were attending at the time they entered foster care.

The DSHS must work with the AOC to develop protocols to ensure that educational stability is addressed during the shelter care hearing.

The DSHS must perform these tasks based on available resources.

Votes on Final Passage:

House	97	0	
Senate	45	0	(Senate amended)
House	97	0	(House concurred)

Effective: July 27, 2003

SHB 1059

PARTIAL VETO

C 404 L 03

Creating a joint committee on trade policy.

By House Committee on Trade & Economic Development (originally sponsored by Representatives Veloria, Sump, Grant and Clements).

House Committee on Trade & Economic Development
Senate Committee on Commerce & Trade

Background: Washington's economy relies significantly on international trade. There are many international agreements and ongoing negotiations that could significantly impact Washington's economy, regulations and statutes. However, there is no formal role for the Legislature to weigh in on the debate nor any formal and focused legislative audience to concentrate on such agreements and negotiations.

Summary: The Joint Legislative Committee on Trade Policy (Committee) is created. The Committee will include four senators and four representatives and three ex officio members. The senators, two from each of the two largest political parties, will be appointed by the President of the Senate (President). The representatives, two from each of the two largest political parties, will be appointed by the Speaker of the House (Speaker). Vacancies are filled by appointment by the Speaker or President, and must be filled by the same house and party as the member whose seat is being vacated. The ex officio members, who are appointed by the Speaker and the President, must include representatives from the Department of Agriculture and the Office of the Attorney General as well as the State Trade Representative.

At least once per year, the Committee must hear public testimony on the actual impacts of international trade agreements and negotiations on Washington state. It must submit a report on the public testimony to the State Trade Representative and the Legislature.

The Committee must maintain active communication with the State Trade Representative's office, the United States Trade Representative's office, Washington's congressional delegation, and the National Conference of State Legislatures as well as other appropriate groups regarding the ongoing developments in international trade agreements and policy.

The Committee must conduct an annual assessment of the impact of international trade agreements on Washington law and report their findings to the Legislature.

Staff support will be provided by Senate Committee Services and the Office of Program Research.

Votes on Final Passage:

House	97	0
Senate	47	0

Effective: July 27, 2003
May 20, 2003 (Section 2)

Partial Veto Summary: The Governor vetoed the portion that authorizes the appointment of ex officio members of the Joint Committee.

VETO MESSAGE ON HB 1059-S

May 20, 2003

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

Ladies and Gentlemen:

I am returning herewith, without my approval as to the last sentence in section 2, beginning on line 11, Substitute House Bill No. 1059 entitled:

"AN ACT Relating to the creation of a joint legislative oversight committee on trade policy;"

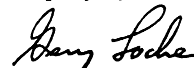
This bill creates a joint legislative oversight committee on trade policy to monitor the impact of trade agreements on Washington state laws, and to provide a mechanism for legislators and others to voice their opinions about the potential impacts of trade agreements.

The last sentence in section 2 would have provided that the speaker of the house and the president of the senate appoint certain ex officio members, including the state trade representative and representatives from the department of agriculture and the office of the attorney general. While executive branch participation in this committee is appreciated, the selection of these appointees should be left to the executive branch.

For this reason, I have vetoed the last sentence in section 2, beginning on line 11, of Substitute House Bill No. 1059.

With the exception of the last sentence in section 2, beginning on line 11, Substitute House Bill No. 1059 is approved.

Respectfully submitted,



Gary Locke
Governor

SHB 1061

C 128 L 03

Authorizing associate degree pathways for persons in apprenticeship programs at community and technical colleges.

By House Committee on Higher Education (originally sponsored by Representatives Veloria, Kenney, Conway, Cox, Hunt, Clements, Morrell, Campbell, Kessler, Simpson, Wood and Berkey).

House Committee on Higher Education
Senate Committee on Higher Education

Background: Apprenticeship Programs. Apprenticeship programs enable individuals to learn trades and occupations through a combination of on-the-job training and related and supplemental instruction. Programs are sponsored by joint employer and labor groups,

individual employers, or employer associations. Sponsoring groups make up the apprenticeship committee that oversees the program. The end product of an apprenticeship is a certificate of journey status, a nationally recognized standard within the specific occupational field of the apprentice.

Community and Technical Colleges. Most apprenticeship committees contract with a community or technical college to provide the program's related and supplemental instruction. For the 2001-02 academic year, 24 community and technical colleges provided instruction for nearly 12,000 apprentices (about 2,600 full-time equivalent students).

Associate Degrees. Fourteen colleges have created agreements within the college that allow apprentices to count portions of their related and supplemental instruction toward a special associate degree. Four of the largest programs offer a Multi-Occupational Trades Associate of Applied Science (AAS) degree for apprentices in the trades. Once the student reaches journey status, only a few additional courses (usually in general education such as English, writing, or college-level math) are needed to receive the AAS. The number of additional courses may vary according to the level of rigor within the apprenticeship program, and the degree is specific to the apprentice's particular trade.

Ten colleges only offer a special associate degree for apprentices in certain fields (usually for educational paraprofessionals). The remaining 10 colleges with apprenticeship programs do not have an associate degree pathway specifically for apprentices.

Summary: An apprenticeship committee can recommend to its community or technical college partner that an associate degree pathway be developed for the committee's apprenticeship program. In consultation with the State Board for Community and Technical Colleges (SBCTC), the committee and the college will consider the extent that apprentices in the program are likely to pursue a degree. If the committee and college determine that an associate degree pathway would be beneficial for apprentices, the committee can request that the college develop one.

After receiving such a request and if the necessary resources are available, the college will develop an associate degree program for apprentices. The college will ensure to the extent possible that related and supplemental instruction provided within the apprenticeship program is credited toward the degree and that other degree requirements are not redundant.

The SBCTC will convene a work group to examine current laws and rules pertaining to instruction for apprentices. The objective is to reduce barriers for apprentices to earn associate degrees. Topics to be examined include use of graded versus ungraded courses and tuition waivers for apprenticeship courses. A report is due to the Legislature by December 15, 2003.

Votes on Final Passage:

House	92	0	
Senate	48	0	(Senate amended)
House	97	0	(House concurred)

Effective: July 27, 2003

SHB 1063

C 9 L 03

Concerning projects to be funded by loans from the public works assistance account.

By House Committee on Capital Budget (originally sponsored by Representatives Morrell, Alexander, Dunshee, Lovick, Veloria, Upthegrove, Chase, McDermott, Morris, Schual-Berke, Kenney, Cody and Moeller).

House Committee on Capital Budget
Senate Committee on Ways & Means

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

The account receives dedicated revenue from: utility and sales taxes on water, sewer service, and garbage collection; a portion of the real estate excise tax; and loan repayments. Approximately $250 million is expected to be generated by these sources during the 2001-03 biennium.

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

The Account appropriation generally is made in the Capital Budget, but the project list is submitted annually in separate legislation. The CTED received an appropriation of approximately $230 million from the Account in the 2001-03 Capital Budget (an additional $20 million appropriation authority was provided for possible federal funds that did not materialize). The funding is available for public works project loans in the 2002 and 2003 loan cycles. In 2002 the Legislature authorized a project list totaling $206 million.

In addition to construction projects, the Account may also be used for emergency loans, preconstruction loans, and capital facility planning loans. The percentage of the Account that may be used for emergency loans, preconstruction loans, and loans for capital facility planning is capped at 15 percent of the biennial capital appropriation for the program. These loans do not need specific legislative approval. Funds from the Account are also used for the federal match for the Drinking Water Assistance Program and occasionally for other purposes.

The Board does not issue all the funds for a particular project at one time; typically, the funds are released periodically as the project proceeds over time. Consequently, a cash balance in the Account is built up due to this delay between project loans authorized and actual construction draws on those projects. In 2001 the Board changed from an approach that basically matched the project list with revenues, deciding to leverage the funds in the Account and use a significant portion of the cash balance by asking the Legislature for authorization for additional projects that exceeded the expected revenue by roughly the amount of the cash balance.

Summary: As recommended by the Public Works Board, 27 additional public works project loans totaling $71.7 million are authorized for the 2003 loan cycle under the appropriation provided for the 2003-05 biennium.

The 27 authorized projects fall into the following categories:

(1) seven water projects totaling $15.6 million;
(2) fifteen sewer projects totaling $33.7 million;
(3) four road projects totaling $12.4 million; and
(4) one bridge project totaling $10 million.

This makes the total project loans authorized by the Legislature for the 2001-2003 biennium $277 million.

In addition, the appropriation from the Public Works Assistance Account in the 2001-2003 Capital Budget is increased by $58.1 million.

Votes on Final Passage:

House	94	0
Senate	48	1

Effective: April 4, 2003

SHB 1069
C 12 L 03

Authorizing a waiver of interest and penalties for property tax bills not sent to the taxpayer due to error by the county.

By House Committee on Finance (originally sponsored by Representatives Pflug, Gombosky, Anderson, Cairnes and Sullivan).

House Committee on Finance
Senate Committee on Ways & Means

Background: All real and personal property in this state is subject to the property tax each year based on its value, unless a specific exemption is provided by law. The tax bill is determined by multiplying the assessed value by the tax rate for each taxing district in which the property is located. The county treasurer mails a notice of tax due to taxpayers and collects the tax.

Property taxes are due on April 30 each year. If one-half of the tax is paid by April 30, then the other half is due on October 31. If the first-half property tax payment is not made on time, the entire tax is delinquent and interest is charged at the rate of 12 percent per year (1 percent per month). If the tax bill is below $50, then all the tax must be paid by April 30. A penalty of 3 percent is assessed on taxes that are delinquent on June 1. An additional 8 percent penalty is assessed on taxes that are delinquent on December 1.

Under limited circumstances interest and penalties owed on delinquent property taxes are waived. Penalties and interest are waived if a county fails to mail the tax due notice to a new property owner if that person's name was recorded with the county by the previous November. Penalties and interest are waived if a taxpayer misses one property tax payment on his or her personal residence due to the death of a spouse. Similarly, if a taxpayer misses one property tax payment on a parent's or step-parent's personal residence due to the death of the parent or step-parent, interest and penalties are waived on the delinquent taxes.

Penalties and interest on delinquent property taxes are deposited into the county general expense fund.

Summary: Interest and penalties on late property tax payments are waived if the tax bill is not sent to the taxpayer due to error by the county.

Votes on Final Passage:

House	95	0
Senate	48	0

Effective: July 27, 2003

HB 1073
C 169 L 03

Modifying the collection of property taxes on land subleased for residential and recreational purposes.

By Representatives Haigh and Eickmeyer.

House Committee on Finance
Senate Committee on Ways & Means

Background: Property owned by federal, state, or local governments is exempt from the property tax. Most private lessees of government property are subject to the leasehold excise tax. The purpose of the leasehold excise tax is to impose a tax burden on persons using publicly-owned, tax-exempt property similar to the property tax that they would pay if they owned the property.

Private leases of publicly owned land consisting of 3,000 or more lots that are or may be subleased for residential and recreational purposes are exempt from leasehold excise tax and are subject to property taxation. Property values are determined in the same manner as for privately owned property.

The sublessee of each lot pays the property tax on the lot and any buildings on the lot. Property taxes unpaid for more than three years are delinquent. The collection of delinquent property taxes proceeds in the same manner as for ordinary delinquent property taxes except that foreclosure proceedings take place only against the improvements on the lot.

Summary: Foreclosure proceedings for delinquent property taxes against lots that are private leases of publicly owned land will take place against the sublease in addition to the improvement on the lot.

Votes on Final Passage:

House 85 0
Senate 43 0

Effective: July 27, 2003

SHB 1074
C 177 L 03

Allowing release of impounded vehicles to owners.

By House Committee on Transportation (originally sponsored by Representatives Bush, O'Brien, Shabro, Kirby, Armstrong, Mielke, Pearson, Anderson, Campbell, Miloscia, Sullivan and Carrell).

House Committee on Transportation
Senate Committee on Judiciary

Background: A law enforcement officer may have a vehicle impounded for several reasons, including if the driver of the vehicle is arrested or if it is determined that the driver is operating the vehicle without a valid driver's license. There are no provisions requiring or authorizing law enforcement to contact the owner of the vehicle in situations where the driver under arrest is not the owner. Because of this, a vehicle may be impounded upon the arrest of the driver with no communication or opportunity for the owner to take possession of his or her vehicle.

Depending on how many times the arrested driver has had his or her license suspended or revoked in the past, the vehicle could be impounded for up to 90 days during which time impound charges are accruing. In order for the owner to get his or her vehicle released, the owner must pay all towing, removal, and storage fees associated with the impoundment of the vehicle. These provisions apply to both privately owned vehicles as well as vehicles owned by businesses.

Summary: If a person is arrested for driving while his or her driver's license is suspended or revoked, the vehicle may be impounded. However, if it is found that the driver under arrest is not the owner of the vehicle, the police officer must attempt to contact the owner before the vehicle is impounded and may release the vehicle to the owner, provided that the subject vehicle is a commercial vehicle.

The release of a vehicle to its owner after an officer has arrested the operator of the vehicle for driving with a suspended or revoked driver's license, is allowed to occur only one time. After this single opportunity, the provisions under existing law would apply.

If a vehicle is impounded because the driver had a suspended or revoked driver's license, the release of the vehicle to the owner may occur on the basis that the owner did not know the driver's license was suspended, the owner was not the driver, and the owner has not received a prior release.

Outside these instances where a vehicle could be released to the owner one time, an officer may deny the release of an impounded vehicle in cases where the impoundment is the result of an arrest for DUI or driving with a suspended license.

Votes on Final Passage:

House 97 0
Senate 49 0

Effective: July 27, 2003

SHB 1075
C 170 L 03

Clarifying 2001 statutory changes made to forest tax statutes.

By House Committee on Finance (originally sponsored by Representatives Blake, Cairnes and Gombosky).

House Committee on Finance
Senate Committee on Ways & Means

Background: Property meeting certain conditions may have property taxes determined on current use values rather than market values. There are four categories of lands that are classified and assessed on current use. Three categories are covered in the open space law: open space lands; farm and agriculture lands; and timber lands. The remaining category is designated forest land in the timber tax law.

The land remains in current use classification as long as it continues to be used for the purpose for which it was placed in the current use program. Land is removed from the program: at the request of the owner; by sale or transfer to an ownership making the land exempt from property tax; or by sale or transfer of the land to a new owner, unless the new owner signs a notice of classification continuance. The assessor may also remove land from the program if the land is no longer devoted to its open space purpose.

When property is removed from current use classification, back taxes, plus interest, must be paid. For open space categories, back taxes represent the tax benefit received over the most recent seven years. For designated forest land, back taxes are equal to the tax benefit in the most recent year multiplied by the number of years in the program (but not more than 10). There are some exceptions to the requirement for payment of back taxes. For example, back taxes are not required on the transfer of the land to an entity using the power of eminent domain or in anticipation of the exercise of that power.

In 2001 the Legislature restored an exception for payment of back property taxes when property is sold or transferred within two years of the death of an owner of at least 50 percent interest in the property. This exception only applies to properties that have been in current use programs continuously since 1993.

In 2001 the Legislature eliminated the distinction between classified and designated forest land in the timber tax program. Many technical changes were made to the statutes to implement this change and to update related statutes.

Summary: The date on the death certificate will be used to implement the exception to payment of back property taxes related to the death of an owner.

Language is restored in the timber tax law that limits the reference to "applicable rules" to only those rules adopted under Title 76 RCW (Forests and Forest Products).

A statute that applies to the repealed classified forest land is repealed.

Votes on Final Passage:

House	93	0
Senate	49	0

Effective: July 27, 2003

ESHB 1076
C 101 L 03

Revising provisions relating to attempting to elude a pursuing police vehicle.

By House Committee on Criminal Justice & Corrections (originally sponsored by Representatives Lovick, McDonald, O'Brien, Moeller, Chase, Haigh, Carrell, Simpson and Kagi).

House Committee on Criminal Justice & Corrections
Senate Committee on Judiciary

Background: It is a criminal offense to intentionally refuse to stop when ordered to do so by a police officer. The gravity of the offense depends upon the circumstances. It is a misdemeanor offense for a person to willfully fail to stop when ordered by a law enforcement officer, but the offense can increase to a felony if the driver willfully refuses to stop while attempting to elude a police vehicle.

A driver commits the crime of attempting to elude a pursuing police vehicle when the driver willfully fails or refuses to immediately stop his or her car and drives in a manner indicating wanton or willful disregard for the lives or property of others after being given a visual or audible signal to stop by a police officer. The signal to stop may be given by hand, voice, emergency light, or siren. Further, the police officer giving the signal must be in uniform and driving a vehicle appropriately marked showing it to be an official police vehicle.

The crime of attempting to elude a police vehicle is a seriousness level I class C felony. A class C felony can have a maximum sentence of five years of incarceration, a fine of $10,000, or both. For a first time offender convicted of a seriousness level I class C felony, the standard sentence range is zero to 60 days incarceration. In addition to any fine or incarceration, a person convicted of attempting to elude a police vehicle can have his or her driver's license revoked for one year.

Reckless driving is also a criminal offense on its own, absent an attempt to elude a police officer. Reckless driving is defined as driving "in willful or wanton disregard for the safety of persons or property" and is punishable as a gross misdemeanor.

Summary: The definition of attempting to elude a pursuing police vehicle is amended. Driving in a "reckless" manner replaces the requirement of driving in a "wanton or willful disregard for the lives or property of others." The requirement that the pursuing vehicle be appropriately marked as a police vehicle is replaced with the requirement that the vehicle be equipped with lights and sirens.

An affirmative defense is added based upon the behavior of a reasonable person. A driver can assert the defense that a reasonable person would not believe that the signal to stop was given by a police officer and that continuing to drive after being signaled to stop was reasonable given the circumstances.

Votes on Final Passage:

House	97	0	
Senate	49	0	(Senate amended)
House	96	1	(House concurred)

Effective: July 27, 2003

EHB 1079
PARTIAL VETO
C 95 L 03

Expanding the definition of resident student for higher education purposes.

By Representatives Kenney, Cox, Fromhold, Jarrett, McIntire, Chandler, Miloscia, Quall, Sullivan, Veloria,

Chase, Hunt, Pettigrew, Darneille, Conway, Cody, DeBolt, Delvin, Hudgins, Lantz, McDermott, Haigh, Kagi and Mastin.

House Committee on Higher Education
Senate Committee on Higher Education

Background: State law provides uniform standards for determining whether a student will be charged resident tuition or non-resident tuition at the state's public colleges and universities. The Higher Education Coordinating Board has responsibility for adopting rules for the institutions to use when making these determinations. Factors used to determine a student's eligibility for in-state tuition include:

- whether the student is financially dependent or independent;
- the permanent home state of the student or his/her parent(s);
- where the student attended and/or graduated from high school;
- the military status of the student, his/her spouse, or his/her parent(s);
- whether the student is a member of a federally-recognized Indian tribe; and
- whether the student is attending under a tuition agreement with another state.

Washington high school graduates who lack documentation of official United States residency status are charged non-resident tuition regardless of the length of time they have lived in the state. These students are not eligible for federal financial aid or loans. The difference between undergraduate resident and non-resident tuition rates per academic year varies from $5,200 at the state's community and technical colleges, to $7,700 at Washington State University, to $10,700 at the University of Washington.

Summary: Beginning July 1, 2003, the definition of "resident student" is expanded by creating an additional set of criteria by which a student may qualify for in-state tuition at the state's public colleges and universities. A student qualifies as a "resident student" for tuition purposes if the student:

1) completes the full senior year of high school and earns a diploma, or earns the equivalent of a high school diploma;
2) lives in Washington for three years immediately preceding the earning of the diploma or its equivalent;
3) lives in Washington continuously since earning the diploma or its equivalent until the time the student is admitted to an institution of higher education; and
4) submits to the college or university an affidavit promising to file for permanent residency at the earliest opportunity under which the student is eligible and indicating a willingness to engage in other activities necessary to acquire citizenship.

This definition of "resident student" applies only to families of those who hold, or entered the United States with, a temporary protected status visa, a work visa, or a green card, or who have received amnesty from the federal government.

Votes on Final Passage:

House	75	20	
Senate	48	0	(Senate amended)
House	82	15	(House concurred)

Effective: July 1, 2003

Partial Veto Summary: The Governor vetoed the section limiting the application of the act only to families of those who hold, or entered the United States with, certain visas or work permits or who have received amnesty from the federal government.

VETO MESSAGE ON HB 1079

May 7, 2003

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

Ladies and Gentlemen:

I am returning herewith, without my approval as to section 3, Engrossed House Bill No. 1079 entitled:

"AN ACT Relating to resident tuition at institutions of higher education;"

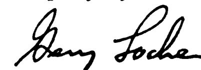
This bill provides that students, who live in Washington for three years prior to receiving a high school diploma or equivalent in Washington, are eligible for in-state tuition rates at public colleges and universities in Washington.

Section 3 would have limited residency status for tuition purposes to students whose families hold work visas, temporary protected status visas, green cards, or who have received amnesty from the federal government. These students are already eligible for resident tuition. The limitations set forth in Section 3 are contrary to the stated intent of the bill.

For these reasons, I have vetoed section 3 of Engrossed House Bill No. 1079.

With the exception of section 3, Engrossed House Bill No. 1079 is approved.

Respectfully submitted,



Gary Locke
Governor

SHB 1081

C 289 L 03

Providing funds to investigate and prosecute mortgage lending fraud.

By House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Hunter, Benson, Schual-Berke, Newhouse, Cooper, Roach and Simpson).

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

Background: Predatory Lending. Since the late 1990s, there has been increasing discussion nationwide regarding the marketing and lending practices of certain members of the mortgage lending industry, particularly those involved in the subprime market. Subprime loans are those issued to borrowers who do not meet the credit standards required to receive a loan from more traditional lenders. Some unscrupulous lenders engage in a variety of fraudulent and/or deceptive practices resulting in loan agreements that are detrimental to the financial interests of the borrowers and which unfairly benefit the lender. Such predatory lending practices tend to diminish the financial benefits of home ownership by retarding the accumulation of equity and substantially increasing the likelihood of default and foreclosure, a phenomenon that some have characterized as a national trend towards asset depletion. The negative effects of such lending practices arguably have a disproportionate impact on low income persons, minorities, and the elderly.

State Regulation. Washington law generally prohibits mortgage lenders from engaging in practices that involve fraud, deceit, or misrepresentation. However, state law does not directly address some of the practices associated with predatory lending, such as excessive fees, prepayment penalties, and balloon payment requirements.

Summary: A fund is created to be administered by the Department of Financial Institutions (DFI) for the purpose of prosecuting consumer fraud on the part of mortgage lenders. The DFI is required to consult with the attorney general and local prosecutors in developing guidelines for the distribution of the funds, which are to be used to enhance law enforcement capabilities at both the state and local level.

The fund is derived from a $1 surcharge assessed by the county auditor on individuals recording deeds of trust. In order to defray the costs of collection, the county auditor may retain up to 5 percent of the funds collected. Once collected by a county, the funds are transferred monthly to the State Treasurer who, in turn, deposits the funds into an a specially designated account.

The DFI has sole authority regarding the expenditure of funds from the account and must report yearly to the Legislature regarding account activity.

This act expires June 30, 2006.

Votes on Final Passage:

House	94	0	
Senate	45	0	(Senate amended)
House	98	0	(House concurred)

Effective: July 27, 2003

HB 1083

C 248 L 03

Making clarifying, nonsubstantive amendments to and correcting outdated references in the insurance code.

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

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

Background: Technical Amendments to the Insurance Code. The Office of the Insurance Commissioner (OIC) is responsible for the regulation of the insurance industry in Washington. The regulatory scheme from which this authority is derived is set forth in Title 48 of the Revised Code of Washington (RCW), which is known as the insurance code. The insurance code encompasses 79 chapters of the RCW and contains all of the statutes governing the insurance industry and the operation of the OIC. The code contains general provisions regarding the regulatory authority of the OIC, examination procedures, corporate organization, solvency requirements, licensing of agents/brokers, investment regulations, consumer protection, rate setting, and insurance contracts. The code also contains separate chapters with regulations specific to the various categories of insurance, including property, casualty, liability, life, health, disability, etc.

Periodically, the OIC proposes comprehensive legislation for the purpose of revising various statutes within the insurance code that are in need of technical, nonsubstantive amendments. Such technical amendments are necessary from time to time to clarify statutory language and correct typographic errors, grammatical problems, obsolete terminology, and erroneous internal statutory references.

Commercial Property Casualty Insurance. An insurer may issue a commercial property casualty insurance policy prior to filing the requisite rates and forms with the OIC. Once the policy is issued, the rates and forms must be filed with the OIC within 30 days. This speeds the process of issuing such commercial policies and is an exception to the general rule that rates and forms must first be filed with the OIC before a policy is issued to an insured. "Commercial property casualty" insurance is defined as insurance pertaining to a "business, profession, or occupation." Nonprofit organizations and public entities are excluded from the definition.

Cancellation of Automobile Insurance. An insurer cannot cancel a private passenger automobile insurance policy unless prior written notice is provided to the insured. The exact amount of notice required depends upon the circumstances of the cancellation. Subject to certain exceptions, a cancellation notice is not valid if sent to an insured more than 60 days after the issuance of the policy. However, this 60-day rule does not apply if the policy cancellation is the result of the suspension or

revocation of the insured's driver's license. The termination of a policy due to the cancellation of an insured's driver's license is not subject to this exception, in which case the 60-day limitation applies.

Summary: Technical Amendments to the Insurance Code. Twenty-two statutes within the insurance code are subject to technical, nonsubstantive amendments. The effect of these amendments is to:

- clarify statutory language via technical, editorial revisions;
- update obsolete terminology so that it is consistent with current usage and related statutes;
- delete internal references to statutes that have been repealed;
- update internal statutory references where such statutes have been amended or recodified; and
- correct typographical errors.

Commercial Property Casualty Insurance. Nonprofit organizations and public entities are added to the list of commercial entities that may obtain commercial property casualty insurance. This will allow insurers to issue policies to nonprofit organizations and public entities prior to filing the requisite rates and forms with the OIC.

Cancellation of Automobile Insurance. If an insured's driver's license is cancelled, an insurer may terminate the insured's automobile insurance policy at any time and is not subject to the rule requiring that termination occur within 60 days of policy issuance.

Votes on Final Passage:

House	97	0
Senate	48	0

Effective: July 27, 2003

HB 1084
C 115 L 03

Regulating automobile insurance.

By Representatives Hunter, Benson and Schual-Berke; by request of Insurance Commissioner.

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

Background: Personal Injury Protection Coverage. "Personal injury protection" (PIP) is a type of automobile insurance coverage obtained by most drivers as part of their comprehensive automobile insurance policy. The PIP insurance provides immediate benefits to an insured on a no-fault basis if he or she is injured in an automobile accident. The coverage generally provides limited financial compensation for injury, death, disability, wage loss, and other expenses incurred as the result of an accident. Automobile liability insurance companies must provide PIP coverage under non-business auto insurance policies unless the named insured rejects PIP coverage in writing. Insurers need not provide PIP coverage for motor homes or motorcycles.

Mandatory Minimum PIP Coverage. At minimum, an insurer must offer PIP benefits that cover medical and hospital expenses incurred within three years of the date of the insured's injury, up to a maximum of $10,000. Funeral expenses must be covered up to $2,000. A maximum of $5,000 in coverage must be provided for loss of services, subject to a limitation of $40 per day and $200 per week. Loss of income benefits must also be provided, subject to the following conditions:

- Income losses must be incurred within one year of injury.
- A total of $10,000 in coverage must be offered, subject to a limit of $200 per week or 85 percent of average weekly income, whichever is less.
- Weekly payments are limited to 85 percent of the insured's weekly income, and the calculation of the amount of the weekly payment must include the combined total of the insurance benefits and all other income loss benefits received by the insured.

Optional Extended PIP Coverage. When explicitly requested by an insured, insurers are required to offer PIP benefits that are much more extensive than the mandatory minimums discussed above. Under the optional coverage provisions, the coverage limit for medical and hospital expenses is raised to $35,000. Coverage for loss of services is set at $40 per day for up to one year and is not subject to a specified yearly limit. The limit on loss of income benefits is raised to $35,000, subject to a limit of the lesser of $700 per week or 85 percent of the insured's average weekly income prior to the injury.

Summary: Technical changes are made to the PIP statutes involving the reorganization of statutory provisions, language clarification, and the deletion of redundant passages. Ambiguous statutory language is revised, thus clarifying that the specified PIP coverages represent the minimum coverages that must be offered by an insurer and allowing insurers to offer more extensive PIP benefits should they so choose.

Votes on Final Passage:

House	93	0
Senate	48	0

Effective: July 27, 2003

SHB 1086
C 61 L 03

Moving mobile homes by mobile home park owners.

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

House Committee on Transportation
Senate Committee on Highways & Transportation

Background: If a person interested in moving a mobile home upon a public highway, the person must obtain a special movement permit from the Department of Transportation (DOT). However, the permit is not valid until the county treasurer provides an endorsement certifying that all property taxes have been paid on the dwelling. If taxes are owed, the county treasurer will not issue the certification until the taxes are paid in full, which therefore means the mobile home may not legally be moved. Once the county treasurer certifies that the taxes have been paid, a decal is issued which must be displayed during the movement of the home.

The only time the county treasurer certification and associated decal are not required is when a mobile home is entering the state, is being moved from a manufacturer or distributor to a retail sales outlet, is being moved directly to the purchaser's designated location, or is being moved between retail sales outlets. Because of the limited nature of these exemptions, issues have arisen around situations where a mobile home must be moved by someone other than the owner but it is discovered that the property taxes due were not paid and, thus, a movement permit and county treasurer certification could not be obtained.

Summary: If a mobile home or park model trailer has been abandoned or has been awarded to the mobile home park landlord as part of a final court judgment for restitution of the premises, the landlord may move the home on a public highway without having to obtain an endorsement from the county treasurer certifying that all property taxes have been paid, provided that the home is being moved to a disposal site for destruction. In order for this to be allowable, the landlord must first file a signed affidavit of destruction with the county assessor's office. Once the affidavit is filed, the mobile home will be removed from the tax rolls and any outstanding taxes on the destroyed home will be removed by the county treasurer.

When a mobile home is going to be sold or rented, rather than destroyed, the outstanding taxes become the responsibility of the landlord and the movement of the home is subject to receiving the county certification.

Votes on Final Passage:

House	96	0
Senate	47	0

Effective: July 27, 2003

HB 1088

C 178 L 03

Authorizing removal of vehicles from restricted parking zones.

By Representatives Fromhold and Moeller.

House Committee on Transportation
Senate Committee on Highways & Transportation

Background: A police officer may take immediate custody of a vehicle and provide for its prompt removal to a place of safety under certain limited circumstances, such as when a vehicle is discovered to be stolen, when a driver is arrested and taken into custody, or when a vehicle is left unattended on a highway in an unincorporated area and is obstructing traffic or jeopardizing public safety. Other unauthorized vehicles left unattended on a public highway are subject to impoundment, but only after 24 hours have passed and the vehicle has been tagged with proper notification by an officer.

Clear statutory authority does not exist to effect the immediate removal of an unattended vehicle that is parked in a signed area and is obstructing a construction, restricted parking or loading zone. The requirement that a vehicle be left in these zones at least 24 hours before being removed can result in costly construction delays and impede local businesses.

Summary: A police officer may take custody of a vehicle and have it removed to a place of safety when it is illegally occupying a zone where, by order of the Secretary of Transportation or chiefs of police or fire, parking is limited to certain classes of vehicles or is prohibited during designated times. The vehicle must be interfering with the proper and intended use of the zone; the limited parking zone must be properly established with signage for at least 24 hours; and the signage must give notice that a vehicle will be removed if it is illegally parked in the zone. Some of the zones included in this provision are truck, commercial loading, restricted parking, bus, taxi, street construction and street maintenance.

Votes on Final Passage:

House	97	0	
Senate	48	0	(Senate amended)
House	96	1	(House concurred)

Effective: July 27, 2003

EHB 1090
C 266 L 03

Extending the task force against trafficking of persons.

By Representatives Veloria, Roach, O'Brien, Bush, Lantz, Clements, Linville, Kenney, Boldt, Sullivan, Upthegrove, Chase, Darneille, Hudgins and Edwards.

House Committee on Criminal Justice & Corrections
Senate Committee on Judiciary
Senate Committee on Children & Family Services & Corrections

Background: The 2002 Legislature established the Washington State Task Force Against the Trafficking of Persons (Task Force). The Task Force consists of the following persons (or their designees): the Director of the Office of Community Development; the Secretary of the Department of Health; the Secretary of the Department of Social and Health Services; the Director of the Department of Labor and Industries; and the Commissioner of the Employment Security Department. In addition, the Task Force includes nine members, selected by the Director of the Office of Community Development, that represent the public and private sector organizations that provide assistance to persons who are victims of trafficking. With the exception of travel expenses, all members of the Task Force served without compensation. Administrative and clerical support to the Task Force is provided by the Office of Community Development.

The Task Force is responsible for the following activities:

- measuring and evaluating the progress of the state's trafficking prevention activities;
- identifying federal, state, and local programs that provide victims of trafficking with services such as health care, human services, housing, education, legal assistance, job training or preparation, interpreting services, English as a second language classes, and victim's compensation; and
- making recommendations on how to provide a coordinated system of support and assistance to victims of trafficking.

The Task Force was to provide a report to the Governor and the Legislature by November 30, 2002, on its findings and recommendations on trafficking in Washington.

The Task Force provisions expire March 1, 2003.

Summary: The expiration date of the Task Force is extended to June 30, 2004 (from March 1, 2003). The Task Force must provide a supplemental report to the Governor and the Legislature by June 30, 2004, on its findings and recommendations on trafficking in Washington.

Administrative and clerical support for the continuation of the Task Force is provided by the Office of Community Development, within available resources. All members of the Task Force must serve without compensation with the exception of travel expenses which are reimbursable within available funds.

Votes on Final Passage:

House	96	1	
Senate	48	0	(Senate amended)
House	97	0	(House concurred)

Effective: May 14, 2003

2SHB 1095
C 311 L 03

Limiting the impact on small forest landowners caused by forest road maintenance and abandonment requirements.

By House Committee on Appropriations (originally sponsored by Representatives Rockefeller, Sump, Linville, Orcutt, Schoesler, Pearson, Holmquist, Haigh and Kristiansen; by request of Commissioner of Public Lands).

House Committee on Agriculture & Natural Resources
House Committee on Appropriations
Senate Committee on Natural Resources, Energy & Water
Senate Committee on Ways & Means

Background: History of the Forests and Fish Law. The Forest and Fish Report was presented to the Forest Practices Board (Board) and the Governor's Salmon Recovery Office on February 22, 1999. The report represented the recommendations of the authors for the development and implementation of rules, statutes, and programs designed to improve and protect riparian habitat on non-federal forest lands in Washington.

In 1999 the Legislature recognized the Forest and Fish Report by passing the Forests and Fish Law. The law strongly encouraged the Board to adopt emergency rules implementing the recommendations of the Forest and Fish Report. These recommendations included the requirement that all forest landowners be required to file a road maintenance and abandonment plan (RMAP).

RMAP Requirements. All forest landowners must submit a RMAP to the Department of Natural Resources (DNR) by December 31, 2005, or concurrent with an application for a forest practice, whichever is sooner. The RMAP must contain ownership maps, a schedule to complete necessary road work within 15 years, standard road maintenance practices, a storm maintenance strategy, and an assessment of risks to public resources.

On each anniversary date of a RMAPs submission, the owner must file with the DNR a detailed description of the work that was accomplished the previous year and the work that is scheduled for the upcoming year. If the landowner decides not to maintain a road, he or she must

indicate in the RMAP a schedule for abandoning the road.

If a landowner fails to submit a RMAP, or to comply with the work schedule outlined in the RMAP, the DNR may deny future forest practice applications made by that landowner. In addition, the RMAP requirement is considered a continuing forest land obligation. All such obligations must be disclosed by the seller of forest land to the buyer prior to sale. If the seller fails to disclose these obligations, the seller is responsible for paying the costs incurred by the buyer for compliance with the obligations.

Summary: Definitions. The term "small forest landowner" is defined consistently with other locations in the Revised Code of Washington. The definition of small forest landowner is generally a person or entity that harvests an average of two million board feet or less each year.

The term "forest road" is generally defined to mean any road or road segment that crosses over forest land. "Forest land" is defined to exclude residential home sites and agricultural land. "Fish passage barrier" is defined to mean artificial instream structures.

RMAP Reporting Requirements. The Board is instructed to adopt emergency rules by October 31, 2003, for RMAPs that are different from the recommendations of the Forest and Fish Report. Forest landowners that own a total of 80 acres or less of forest land are not required to submit an RMAP for blocks of forest land that are 20 contiguous acres or less in size.

Landowners that do not meet the 20-acre exemption, but still satisfy the definition of a small forest landowner, are only required to file a checklist RMAP and are exempted from the annual reporting requirement. Unlike standard RMAPs, checklist RMAPs do not need to be filed until the landowner files a forest practice application for a final or intermediate harvest, or for a tree salvage. The checklist RMAP must be limited in scope to the current law, and may only apply to forest roads affected by a forest practice application.

Cost-Share Funding. The Small Forest Landowners Office (SFLO) must seek out funding to implement a cost-sharing program to assist small forest landowners with the costs of removing and replacing culverts and other man-made fish blockages.

The SFLO is directed to seek the highest possible proportion of public funding available; however, a small forest landowner is only required to contribute 25 percent of the cost of any fish barrier or culvert removal. In no instance will a small forest landowner be required to contribute more than $5,000 towards a particular fish barrier. If a small forest landowner is required to remove a culvert that was lawfully installed, the cost-share program will pay for 100 percent of that culvert's removal costs. In addition, the annual amount that a small forest landowner can be required to pay for fish barrier removal is calculated from the amount of timber he or she harvested in the three years leading to the fish barrier removal.

If a small forest landowner is required to pay for a portion of a road maintenance project, that landowner can satisfy his or her share by providing in-kind services. In-kind services can include labor, equipment, and materials.

Limited funds for the cost-share program are directed to be applied in a worst-first manner within a watershed. The DNR is responsible for establishing an order for providing funds that is aimed at first addressing the priority blockages. In establishing this order, the DNR must coordinate with the Department of Fish and Wildlife and salmon recovery lead entities to establish an annually-updated ranked inventory of fish barriers on land owned by small forest landowners. This process first requires that all known data about the locations and impacts of fish blockages be gathered and synthesized. The funding order may be altered to reflect the addition of new information.

Forest Practices Application Approvals. Small forest landowners will not have a forest practices application denied solely on the grounds that fish blockages have not been removed if the landowner agrees to remove the fish blockages when cost-share funding is available. The participating landowner will be able to conduct all otherwise permissible forest practices until the cost-share program provides funding for the removal of blockages on his or her land.

Continuing Obligations. The checklist RMAP requirement is exempted from the continuing forest land obligations provision of the Forests and Fish Law. The seller of forest land is not required to notify the buyer in writing of the existence of the checklist RMAP requirement. The checklist RMAP requirement is also removed from the express requirement that the seller pay for any continuing obligations that were not disclosed to the buyer.

Votes on Final Passage:

House	78	20	
Senate	49	0	(Senate amended)
House	96	0	(House concurred)

Effective: May 14, 2003

SHB 1100

C 395 L 03

Regulating the sale, processing, or purchase of agricultural products.

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

House Committee on Agriculture & Natural Resources
Senate Committee on Agriculture

Background: With certain exceptions, no person may act as a commission merchant, dealer, broker, or cash buyer in agricultural commodities, or as such a person's agent without being licensed by the Department of Agriculture (WSDA) under the state's commission merchant laws. Surety bonds are required for those licensed as commission merchants or dealers.

A "commission merchant" is a person who receives an agricultural product on consignment for sale on commission on behalf of the consignor, or for processing and sale. It is also a person who accepts a farm product in trust from a consignor for the purpose of resale, or who sells on commission an agricultural product, or who in any way handles an agricultural product for a consignor. In general, a "dealer" is a person other than a cash buyer who solicits, obtains, or contracts or agrees to obtain from a consignor the title, possession, or control of an agricultural product for resale, sale, or processing.

The Director of the WSDA or appointed officers may stop a vehicle transporting hay or straw on a public road if there is reasonable cause to believe that the carrier, seller, or buyer is in violation of the commission merchant laws. A vehicle operator who fails to stop when directed to do so has committed a civil infraction for which the maximum penalty is $1,000.

Under the theft and robbery statutes, the unlawful issuance of a bank check in an amount greater than $250 is a class C felony. The unlawful issuance of a bank check in an amount of $250 or less is a gross misdemeanor.

Summary: Penalties. Rather than being classified as a gross misdemeanor under the commission merchant laws, the unlawful issuance of a check or draft may be prosecuted in the same manner as prosecution for the unlawful issuance of a bank check under the theft and robbery laws which, in certain instances, is classified as a class C felony.

The maximum monetary penalty for a civil infraction under the commission merchant laws is $5,000 (rather than $1,000).

Search Warrants. If, in conducting an investigation regarding a transaction, the Director is denied access to records or places where agricultural products are kept, the Director may apply to any court of competent jurisdiction for a search warrant authorizing access to the premises and records, and the court may issue the search warrant.

Stopping Vehicles. The authority of the Director or the Director's officers to stop vehicles transporting hay or straw on public roads regarding violations of the commission merchant laws is extended to stopping vehicles transporting any agricultural commodity governed by those laws. The director or such an appointed officer must work to ensure that vehicles carrying perishable agricultural products are detained no longer than is absolutely necessary for a prompt assessment of compliance with the commission merchant laws. If a vehicle carrying perishable agricultural products is found to be in violation of those laws, notices of civil infraction must be issued promptly and the vehicle must be allowed to continue toward its destination without further delay.

Payment. The date on which default occurs for a payment to a consignor by a commission merchant or dealer (other than a limited dealer) in hay or straw is either the current statutory deadline of 30 days of the date the person took possession of the hay or straw or a date agreed to by both the consignor and the merchant or dealer in a written contract. The form of payment that a cash buyer may make is expanded to include credit card payment.

Bonds. The criteria for the alternative bonding requirements available to certain dealers are altered. The bond must be in an amount equal to the dealer's maximum monthly purchases divided by 12 (rather than 15) and must be for at least $10,000 (rather than at least $7,500).

The Director is no longer required to demand payment of a claim by a licensee's surety regarding a default on such a payment for hay or straw within 10 working days of the filing of the claim, without regard to other potentially valid claims. The Director is to distribute on a pro rata basis the proceeds of all of the valid bond claims that are timely filed against a commission merchant or dealer regarding an agricultural product. The distribution is to be done within 30 days of verifying the claims. Any monies available after this distribution may be paid on a first-to-file, first-to-be-paid basis for late claims.

Manifests. A bill of lading may be carried by a vehicle transporting agricultural products other than hay or straw for a commission merchant, dealer, or cash buyer in lieu of a manifest of cargo. The commission merchant, dealer, or cash buyer must retain a copy of the manifest or bill of lading for three years (rather than one year). A representative of the consignor may now sign the manifest for the consignor. The provisions regarding manifests for other agricultural products (but not bills of lading) expressly apply with regard to consignments of hay or straw to commission merchants or dealers. Manifest forms will be provided to licensees at actual cost plus necessary handling charges incurred by the WSDA.

Other. A limited dealer under these laws is defined as being a person operating under alternative bonding requirements who pays the consignor for the production or increase of an agricultural product when the person obtains possession or control of the product by paying the full agreed price of the product. A change in the organization of a licensee that must be reported to the WSDA must now be reported within 30 days.

Study. The WSDA must conduct a study of alternative means of reducing the risk of producer nonpayment in seed company bankruptcies and increasing the financial recovery for the producers. The WSDA must evaluate: alternative methods of addressing issues relating to nonpayment, including: establishing an indemnity fund; how the costs of providing and maintaining such a fund would be borne; and whether establishing such a fund would be in addition to or as a substitute for any current bonding requirements for various types of seed crops and seed contracts, including bailment contracts. The WSDA must establish an advisory committee including representatives of seed producers and seed companies to assist it in the study and must report the results of the study to the Governor and the Legislature by December 1, 2003.

Votes on Final Passage:

House	93	0	
Senate	47	0	(Senate amended)
House			(House refused to concur)
Senate	47	0	(Senate amended)
House	98	0	(House concurred)

Effective: July 27, 2003

HB 1101
C 13 L 03

Forwarding grain when an emergency storage situation exists.

By Representatives Schoesler, Linville, Grant, Rockefeller, Holmquist, Sump and Mielke; by request of Department of Agriculture.

House Committee on Agriculture & Natural Resources
Senate Committee on Agriculture

Background: Negotiable receipts issued to a depositor by a grain warehouse for the grain deposited for storage in the warehouse must satisfy the requirements of the Uniform Commercial Code and the state's grain warehouse laws. If part of the grain governed by such a receipt is withdrawn by the depositor, the original receipt must be replaced with one showing the amount of the depositor's grain remaining in the warehouse. However, during a grain storage emergency, the Director of the Department of Agriculture may authorize a warehouse to forward grain covered by negotiable receipts to other licensed warehouses for storage without canceling and reissuing negotiable receipts for the grain. Such an action must be conducted under conditions set by rule. This authority to forward the grain without reissuing negotiable receipts is for a period that cannot exceed 30 days.

Summary: The 30-day limitation on forwarding grain, during a grain storage emergency, to other warehouses without reissuing negotiable receipts for the grain is eliminated.

Votes on Final Passage:

House	93	0
Senate	43	0

Effective: July 27, 2003

HB 1102
C 187 L 03

Revising the provision for exchange agreements for environmental mitigation sites.

By Representatives Murray, Ericksen, Rockefeller, Wood and Mielke.

House Committee on Transportation
Senate Committee on Highways & Transportation

Background: Through local, state, and federal permitting processes, the Department of Transportation (Department) is required to conduct ecological restoration and enhancement activities to compensate for transportation activity impacts to environmentally sensitive areas. The Department often purchases properties for mitigation sites. Because some sites are distant from the highway right of way, site maintenance can be more difficult, and it is both beneficial and useful to have these properties managed by parties charged with land management.

In 2002 legislation authorized the Department to convey properties which serve as environmental mitigation sites as consideration for those agencies or groups assuming maintenance obligations required to maintain the site in perpetuity. These conveyances may be to governmental agencies, tribal governments, or private nonprofit groups incorporated in this state that are organized for environmental conservation purposes. This definition inadvertently excluded large conservancy organizations that are incorporated elsewhere.

Summary: For consistency in statute, a change is made among those parties to whom the Department may convey environmental mitigation sites. The term referring to groups organized for environmental conservation purposes is changed to "nature conservancy corporations" as defined elsewhere in statute.

A conveyance is permitted to be by any form of conveyance, not just a quit claim deed.

Votes on Final Passage:

House	93	0	
Senate	46	3	(Senate amended)
House	96	0	(House concurred)

Effective: July 27, 2003

HB 1106
C 109 L 03

Authorizing the secretary of state to observe county election facilities.

By Representatives Bush, Haigh, Kenney, Miloscia, McDonald, Campbell, Cox, Edwards, Clements, Veloria, Wood, Pearson, Schindler, Mielke, Woods, Sullivan, Shabro, Roach, Benson, Buck, Condotta, Talcott, Priest, Sump, Carrell, Anderson, Lantz, Schoesler, Darneille, Nixon, Kagi, Boldt, Lovick, McDermott, Pflug, McCoy, Upthegrove and McMahan.

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

Background: The Certification and Training Program (Program) within the Office of the Secretary of State (Secretary) was created in 1992 in response to a very close legislative district race. The recount in the race revealed inconsistencies and errors that pointed out the critical need for standardization and uniformity in all aspects of the election process. The Program trains and certifies county election administrators and provides election assistance, a review process, and a clearinghouse.

A review of county election procedures may be conducted at the request of a county auditor, the Secretary, or when a statutory recount is required. The review may be a full review, which covers all aspects of election administration in a county, or it may be a partial review. A full review is done during the administration of an election to allow observation of election procedures. In the case of a recount, a special review is conducted covering only the areas which would affect the outcome of a potential recount. The Program may prioritize counties based on the date and results of the last review, requests from county auditors, written complaints filed with the Secretary, negative media stories or reports, or the date on which the determination is made that a special review is necessary.

Summary: The Office of the Secretary of State, Elections Division, may make unannounced visits to county election offices and facilities to observe handling, processing, counting or tabulation of ballots.

Votes on Final Passage:

House	96	1
Senate	44	1

Effective: July 27, 2003

HB 1108
C 269 L 03

Establishing penalties for harming a police horse.

By Representatives Chase, DeBolt, Lovick, Ahern, Moeller, Blake, McCoy, Eickmeyer, Sump, O'Brien, Mielke and Haigh.

House Committee on Criminal Justice & Corrections
Senate Committee on Judiciary

Background: Police horses are generally selected based on their friendliness and calmness to be able to stand firm through gunfire, riots, smoke, flares, parades, funerals, bottle rockets, squealing children, speeding traffic, and other obstacles. They are often used by law enforcement officers for crowd control, spotting impending crimes from far away distances, and for search and rescue missions. They are also found to patrol more effectively than officers on foot or motorized vehicles in certain situations.

Unlike dogs which are often used for law enforcement purposes to help police investigate crimes and apprehend suspects, police horses are not protected by a criminal statute similar to the one that prohibits the injuring or killing of a police or accelerant dog. A person is guilty of harming a police or accelerant dog if the person maliciously injures, disables, shoots, or kills a dog that the person knows or has reason to know is a police or accelerant dog. The dog does not have to be engaged in police or accelerant detection work at the time when the person injures or kills the dog. Harming a police dog is an unranked class C felony. The maximum sentence for unranked felonies is one year of confinement, along with possible community service, legal financial obligations, community supervision, and a fine.

Summary: Police horses used by law enforcement officers are protected by the same criminal statute that prohibits the injuring or killing of police and accelerant dogs. If a person maliciously injures, disables, shoots, or kills a police horse when the person knows or has reason to know the horse is a police horse, the person is guilty of an unranked class C felony. The horse does not have to be engaged in police work when the person injures or kills the horse.

"Police horse" is defined as any horse used or kept for use by a law enforcement officer in discharging any legal duty or power of his or her office.

Votes on Final Passage:

House	97	0	
Senate	49	0	(Senate amended)
House			(House refused to concur)
Senate	46	0	(Senate receded)

Effective: July 27, 2003

HB 1110

C 62 L 03

Increasing the monthly pensions for volunteer fire fighters and reserve officers.

By Representatives Newhouse, Clibborn, Lovick, Benson, Cooper and Haigh.

House Committee on Appropriations
Senate Committee on Ways & Means

Background: The Volunteer Fire Fighters' Relief and Pension System (VFFRPS) provides death, disability, medical, and retirement benefits to volunteer fire fighters and reserve officers in cities, towns, and fire protection districts. The State Board for Volunteer Fire Fighters administers this system. The system 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 offered by the VFFRPS, but participation in the pension component is optional. About 18,000 members are covered by the death, disability, and medical benefits, and 12,000 members are covered by the pension benefits.

To participate in the pension benefit program, cities, counties, or fire districts with volunteer fire fighters pay a retirement system participation fee to the VFFRPS by March 1 each year. A member is only eligible for a pension from years in which his or her employer has paid the participation fee.

Upon attaining age 65 and 25 years of service, volunteer fire fighters are entitled to a pension. If their employer has paid the participation fee for a period of 25 years, a member is paid a monthly pension of $280 for life. If a member's employer has paid the participation fee for less than 25 years, the member receives a pension of $30 per month, plus an additional $10 for each year the annual participation fee has been paid, up to the $280 maximum. Members with 25 years of service may also receive reduced early retirement benefits beginning at age 60.

Summary: Pension benefits payable to retirees from the VFFRPS are increased. A member retiring at age 65 and 25 years of service is entitled to a monthly pension of $300 if his or her employer has paid the participation fee for 25 years. A member whose employer has paid the participation fee for less than 25 years receives $50 per month, plus an additional $10 per month for each year the participation fee has been paid up to the $300 maximum.

Votes on Final Passage:

House	95	0
Senate	48	0

Effective: July 1, 2003

SHB 1113

C 306 L 03

Regarding irrigation district boards of joint control.

By House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Hinkle, Linville, Schoesler, Boldt and Mielke).

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

Background: An irrigation district may be created to provide a system of water distribution for irrigation purposes. In addition, an irrigation district has authority to buy and sell electric power for irrigation and domestic use, operate a domestic water system for irrigated land owners, and operate a drainage or sewage system.

Two or more irrigation entities may create a board of joint control. An "irrigation entity" is defined for purposes of the board of joint control statutes as an irrigation district or an operating entity for a division within a federal reclamation project. A board of joint control may be created to:

- construct, operate, manage, and improve joint use facilities owned or controlled by participating irrigation entities; and
- conduct activities and programs promoting effective and efficient water management for member entities' benefit.

Among other powers, a board of joint control may acquire property or property rights within its area of jurisdiction by eminent domain in the same manner as irrigation districts. A board of joint control also may construct and operate drainage projects and water quality enhancement projects. In addition, a board of joint control may pursue conservation and system efficiency improvements and redistribute the saved water within its jurisdictional area or transfer it to others. Redistribution or transfer may not impair existing water rights outside the board of joint control's jurisdictional area. A board of joint control may not authorize changes in place of diversion or use or changes in purpose of use without the approval of the Department of Ecology and of the United States Bureau of Reclamation if within a federal reclamation area.

Washington courts have considered challenges to legislative grants of authority to perform some regulatory, disciplinary, or other functions to certain private associations or entities. In those cases, Washington courts have considered whether an unlawful delegation of legislative authority has occurred by examining factors such as whether the Legislature has provided standards or guidelines for delegated entities' action and included procedural safeguards to control arbitrary action or abuse of discretion.

Summary: Definitions within the board of joint control statutes are amended. The "irrigation entity" definition includes a water company, water users' association, municipality, water right owner and user of irrigation water, and any other entity providing irrigation water as a primary purpose when these private or public entities create or join a board of joint control with an irrigation district or operating entity for a division within a federal reclamation project. The definition of "joint use facilities" is amended to include ditches and natural streams in which the irrigation entity has rights of conveyance. The definition of "source of water" is amended to include tributary systems.

When a board of joint control includes irrigation entities other than an irrigation district or operating entity for a division within a federal reclamation project, the voting structure must be established so that the votes apportioned to these other entities are less than 50 percent of the total votes.

Provisions regarding water transfers are amended. Any change in place of use from a transfer of water between individual entities of a board of joint control must not reduce the total water supply available in a federal reclamation project. A board of joint control must consult with the federal Bureau of Reclamation when determining whether such a reduction may occur in an area covered by a federal reclamation project. In addition, a board of joint control created after January 1, 2003, must notify the Department of Ecology and any Indian tribe requesting notice of transfers of water between the individual entities of the board of joint control.

These provisions may not be interpreted to authorize impairment of existing water rights.

Votes on Final Passage:

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

Effective: July 27, 2003

HB 1114
C 192 L 03

Extending school or playground speed zones.

By Representatives Hinkle, Murray, Armstrong, Priest, Boldt, Lovick, Mielke and Haigh.

House Committee on Transportation
Senate Committee on Highways & Transportation

Background: Washington law provides for the creation of school and playground speed zones that limit traffic speed to 20 miles per hour. These speed zones may extend 300 feet from either side of a marked school or playground crosswalk when speed limit signs are clearly posted at the crosswalk, and fines for violating the speed limit in these zones are doubled. In some areas, particularly in rural communities where marked crosswalks are not provided, local authorities have established school or playground speed zones that extend from the property line in order to protect pedestrian traffic. It is not clear that statutory authority exists to allow local jurisdictions to establish these speed zones from the property line rather than a crosswalk.

Summary: Counties, incorporated cities, and towns are authorized to create school or playground speed zones on highways bordering a marked school or playground that may extend 300 feet from the property border. Driving speed in such marked zones is limited to 20 miles per hour. The speed zones created by local jurisdictions may only include areas consistent with active school or playground use.

Votes on Final Passage:

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

Effective: July 27, 2003

HB 1117
C 15 L 03

Moving a web site address from statute to rule.

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

House Committee on Agriculture & Natural Resources
Senate Committee on Agriculture

Background: The state's fertilizer laws require commercial fertilizer sold in this state to be accompanied by a label containing statements that identify a number of the characteristics of the fertilizer. One of the required statements must identify the internet address at which information regarding the components of the product, or information regarding the contents and levels of metals in the product, are available. Two versions of a state internet address at which this information may be found are listed by statute. Specifications for an internet address maintained by the registrant of the fertilizer that may be listed as an alternative to one of the state sites are also listed by statute. For packaged fertilizers, the label must be affixed to the package. For bulk fertilizers, a written statement containing the same information required for a label must be supplied to the purchaser.

Summary: Internet addresses are no longer specified by statute for state sites at which information regarding the content of a commercial fertilizer may be found. The statutory authority of a label to refer persons to a site maintained by a registrant in lieu of referring them to a state site is eliminated. The label for a commercial fertilizer must now contain a statement, established by rule, that refers persons to the state Department of Agricul-

ture's Uniform Resource Locator internet address where data regarding the metals content are located.

Votes on Final Passage:

House	93	0
Senate	47	0

Effective: January 1, 2004

HB 1126

C 308 L 03

Allowing seed testing fees to increase in excess of the fiscal growth factor set out in chapter 43.135 RCW.

By Representatives Schoesler and Linville.

House Committee on Agriculture & Natural Resources
House Committee on Appropriations
Senate Committee on Agriculture

Background: The state's seed laws were enacted to provide uniformity and consistency in the packaging of agricultural, vegetable, and flower seeds. The laws require the germination rate to be included on a required label for the seed and authorize the state's Department of Agriculture (WSDA) to establish by rule standards and label requirements for flower seed, vegetable seed, and agricultural seed. Among the authorities of the WSDA under the seed laws are those to sample and test seeds, to adopt and enforce rules for inspecting and certifying seeds and growing crops of seeds, and to establish fees and assessments for carrying out the seed laws.

Initiative 601 was approved by the voters at the November 1993 general election. A provision of the initiative states that no fee may increase in any fiscal year by a percentage in excess of the fiscal growth factor for that fiscal year without prior legislative approval. The Forest Products Commission is exempted from this limitation as are referendum approved assessments of agricultural commodity commissions and boards. The fiscal growth factor for a fiscal year is the average of the sum of inflation and population change for each of the prior three fiscal years.

The Agricultural Local Fund is in the custody of the State Treasurer; it is not subject to appropriation. Among the accounts in the Fund are those for: the commission merchant program, feed and fertilizer regulation, grain warehouse audits, livestock identification, nursery inspection, hop inspection, organic food certification, plant stock certification, and seed inspection and certification.

Summary: The WSDA may increase fees established under the seed laws regarding laboratory testing and seed certification in excess of the fiscal growth factor. This authority is granted to the WSDA for increasing the fees only if it does so by rule during the fiscal year ending June 30, 2004. However, this authority is null and void if any of the moneys from any source that have been deposited in the Agricultural Local Fund are transferred to the General Fund, or authorized to be transferred to the General Fund, by legislation enacted during the first six months of calendar year 2003.

Votes on Final Passage:

House	94	1	
Senate	46	0	(Senate amended)
House			(House refused to concur)
Senate	48	0	(Senate receded)

Effective: July 1, 2003

SHB 1127

PARTIAL VETO

C 387 L 03

Concerning the direct retail sale of salmon, crab, and sturgeon.

By House Committee on Fisheries, Ecology & Parks (originally sponsored by Representatives Hatfield, Buck, Cooper, Blake, Pearson and Berkey).

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

Background: In 2002 the Legislature created the Direct Retail Endorsement as an optional add-on to a commercial salmon or crab license. Holders of a Direct Retail Endorsement are permitted to sell their salmon or crab catch directly to the retail market without first obtaining a wholesale dealer's license. Fishers opting for the endorsement are required to abide by all harvest requirements established by the Department of Fish and Wildlife (Department) and must land their catch in the round.

The holders of Direct Retail Endorsements are not required to obtain permits or licenses from each county in which they sell their catch. However, prior to being issued a Direct Retail Endorsement, the fisher must provide to the Department a signed letter from a county health department. The letter must indicate that the fisher has fulfilled all of the requirements related to that county's health rules and the statewide standards for food service operations. Before any sales may occur in a county that did not issue the required letter, the fisher must provide 48-hours notice and allow that county or a Department employee to inspect the sales operations.

Most commercially caught fish is subject to the Enhanced Food Fish Excise Tax. This tax is paid by the fisher and is calculated as a percentage of the value of the fish at the point of landing.

Summary: The scope of the Direct Retail Endorsement is expanded so that commercial fishers may sell all retail-eligible species directly to the retail market and to restaurants. Retail-eligible species is defined to mean salmon, sturgeon, and crab. Commercially harvested retail-eligible species sold under a Direct Retail

Endorsement are not required to be landed in the round.

The Fish and Wildlife Commission may require a fisher to notify the Department up to18 hours prior to conducting a direct retail sale, unless the cumulative sales from the fisher's vessel that day will total less than $150. The Department is authorized to issue a Direct Retail Endorsement at any time, and not just at time of license renewal.

The Enhanced Food Fish Excise Tax is directed to be calculated from the comparable sales value of similar fish at the port of landing.

Votes on Final Passage:

House	97	0	
Senate	49	0	(Senate amended)
House	96	0	(House concurred)

Effective: July 27, 2003

Partial Veto Summary: The section of the bill vetoed by the Governor altered the calculation of the tax charged on all enhanced food fish from the value of the fish at the point of landing to the comparable sales price for similar species of fish at the point of landing.

VETO MESSAGE ON HB 1127-S

May 20, 2003

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 6, Substitute House Bill No. 1127 entitled:

"AN ACT Relating to the selling of commercially harvested fish;"

This bill expands the scope of the direct retail endorsement. The endorsement is an optional add-on to a commercial fishing license that allows the holder to sell salmon, crab, and sturgeon directly into the retail market.

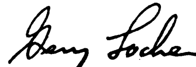
Section 6 would have changed the tax base for the enhanced food fish tax from "value" to "comparable sales price for similar species of fish." This new tax base would be applicable to all food fish, not just to food fish sold pursuant to the direct retail endorsement. The new tax base is undefined and would deprive taxpayers of certainty. Its administration would be burdensome and complicated for both the industry and the Department of Revenue.

I am directing the Department of Revenue to work with the concerned parties to resolve issues surrounding the tax base of food fish sold pursuant to a direct retail endorsement. This should involve education on the current application of the tax, as well as development of potential legislation that would address direct retail endorsement sales only.

For these reasons, I have vetoed section 6 of Substitute House Bill No. 1127.

With the exception of section 6, Substitute House Bill No. 1127 is approved.

Respectfully submitted,



Gary Locke
Governor

SHB 1128

C 117 L 03

Prohibiting insurers from taking certain underwriting actions regarding property insurance policies due to claims made for malicious harassment.

By House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Schual-Berke, Benson, Simpson, Ruderman, Wallace, Hunt, McDermott, Pflug, Campbell and Upthegrove; by request of Insurance Commissioner).

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

Background: Regulation of Insurance Underwriting: The Office of the Insurance Commissioner (OIC) is responsible for the regulation of the insurance industry in Washington. The OIC is authorized to regulate both the underwriting and rate-setting practices of the companies doing business in this state. In addition, the OIC is given broad regulatory authority to prevent insurance practices that are either unfair, deceptive, or discriminatory. Under current law, there is no explicit regulation of the underwriting practices of insurers with respect to claims stemming from hate crimes or malicious harassment.

Malicious Harassment: The crime of malicious harassment consists of either a threat or an act causing physical injury or property damage that is directed against a person because of his or her race, color, religion, ethnicity, gender, sexual orientation, or disability. The burning of a cross or defacing property with a swastika constitutes a crime per se when directed against an African American or a person of Jewish heritage, respectively. Malicious harassment is a class C felony.

Laws of Other States: California and Illinois have enacted legislation prohibiting insurers from cancelling or non-renewing property insurance policies due to claims resulting from hate crimes involving arson or vandalism. The passage of the California law was the result of a series of arsons against synagogues perpetrated by individuals linked with an anti-Semitic hate group. An insurer later refused to renew the policy of one of the synagogues that suffered extensive property damage.

Summary: Insurers are prohibited from taking an underwriting action against an insured as the result of a property insurance claim stemming from the crime of malicious harassment. This prohibition applies with respect to insurance claims made within five years of such action by individuals as well as any religious, charitable, or educational organization that makes an insurance claim due to a loss sustained as the result of malicious harassment. "Underwriting action" is defined to include: 1) cancellation or non-renewal of an existing policy; or 2) any change in the terms or benefits of a

policy.

An injured party is required to file a report with a law enforcement agency that contains facts sufficient to put the insurer on notice that the loss was the result of a malicious harassment offense. The law enforcement agency, in turn, must make a determination that an insured is the victim of a crime in order for the provisions limiting underwriting actions to apply. An insured must cooperate with law enforcement authorities and insurance investigators with respect to the investigation of a claim of malicious harassment.

An insurer must file an annual report with the OIC regarding any underwriting action taken against an insured who has filed a malicious harassment loss claim during the preceding five year period.

Votes on Final Passage:

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

Effective: July 27, 2003

SHB 1136
C 184 L 03

Implementing the recommendations of the state parks and outdoor recreation funding task force relating to the use of the outdoor recreation account.

By House Committee on Capital Budget (originally sponsored by Representatives Flannigan, Ericksen, Armstrong, McIntire, Condotta, Wallace, Dunshee and Cooper).

House Committee on Capital Budget
Senate Committee on Parks, Fish & Wildlife

Background: The Washington Wildlife and Recreation Program (WWRP) provides funds for the acquisition and development of local and state parks, water access sites, trails, critical wildlife habitat, and urban wildlife habitat. Counties, cities, ports, park and recreation districts, school districts, state agencies, and tribes are eligible to apply. Local and tribal governments must provide at least a 50 percent match in cash or in-kind contributions. Grants applications are evaluated annually, and the Interagency Committee for Outdoor Recreation submits a list of prioritized projects to the Governor and the Legislature for approval. Half of the funds are for habitat conservation and the other half for outdoor recreation, allocated by formulas established in statute.

Of the funds allocated for outdoor recreation, at least 25 percent go to the State Parks and Recreation Commission for acquisition and development of state parks. Of these funds going to the State Parks and Recreation Commission, 75 percent must be used for acquisition and 25 percent for park development.

Summary: The Washington Wildlife and Recreation Program's allocation for state parks is changed from 75 percent land acquisition and 25 percent park development to 50 percent for land acquisition and 50 percent for park development through June 30, 2009. Beginning July 1, 2009, the minimum amount that must be used for acquisition costs reverts to 75 percent.

Votes on Final Passage:

House	93	0
Senate	49	0

Effective: July 27, 2003

HB 1144
C 175 L 03

Allowing the department of fish and wildlife to use approved controlled substances for chemical capture programs.

By Representatives Haigh, Sump, Cooper, Armstrong, Pearson, McDermott and Chase; by request of Department of Fish and Wildlife.

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

Background: The State Board of Pharmacy (Board) and the Department of Health (DOH) regulate the manufacture, distribution, or dispensing of controlled substances under the Uniform Controlled Substances Act (Act). Controlled substances are categorized into five schedules according to their potential for abuse, the extent of currently accepted medical use in the United States, and the potential that use of the drug may lead to physical or psychological dependence. The United States Drug Enforcement Administration issued a rule in 1999 placing the substance ketamine into schedule III of the Act.

The DOH registers applicants that dispense legend drugs or controlled substances within the state. The Washington Department of Fish and Wildlife (WDFW) uses approved legend drugs to capture animals in response to problem and dangerous wildlife complaints and for management and research purposes. The WDFW has historically used the controlled substance ketamine for its chemical capture activities.

Summary: The DOH may adopt rules to issue a limited registration for the WDFW to operate chemical capture programs using approved controlled substances. The Board, in consultation with the WDFW, must add or remove controlled substances for use in chemical capture programs. The WDFW may not permit persons to administer controlled substances without proper knowledge and training. The Board shall suspend or revoke a registration if it determines a person administering controlled substances has not demonstrated adequate knowledge.

Votes on Final Passage:

House	97	0	
Senate	49	0	(Senate amended)
House	97	0	(House concurred)

Effective: July 27, 2003

HB 1150
C 116 L 03

Selling single premium credit insurance.

By Representatives Hatfield, Cairnes, Roach, Cooper, Benson, Haigh, Schual-Berke and Simpson; by request of Insurance Commissioner.

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

Background: Single premium credit insurance is commonly sold by insurance companies through lenders in connection with mortgage loans or consumer loans secured by real property. A consumer purchases this product to insure against defaulting on the loan in the event of death, disability, or unemployment. Single premium credit insurance is insurance in which the entire premium is paid at the inception of the loan rather than in installments. The general practice is to include the premium in the loan itself, requiring repayment of the premium, including interest, be made over the life of the loan. The term of the insurance is typically between five and seven years, while the term of the loan can be much longer.

Summary: An insurer is prohibited from selling a single premium credit insurance policy in connection with a residential mortgage loan unless:

- the term of the policy and the loan are the same;
- the debtor is given the option of paying for the insurance via monthly premiums; and
- the terms of the insurance policy entitle the insured to a full refund of the premium if the insurance is canceled within 60 days of the inception of the loan.

This does not apply if the loan amount is $10,000 or less, the term of the loan does not exceed five years, and the term of the single premium credit insurance does not exceed the repayment term of the loan.

Votes on Final Passage:

House	96	0
Senate	46	0

Effective: July 27, 2003

SHB 1153
C 305 L 03

Managing confidential records.

By House Committee on State Government (originally sponsored by Representatives Haigh, Miloscia, Armstrong, Hunt, Nixon, Shabro and Mielke; by request of Secretary of State).

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

Background: The Division of Archives and Records Management (State Archives), a division of the Office of the Secretary of State, was created to ensure that state public records will be properly managed and safeguarded. All public records that are not required in the current operation of a state agency, department, commission or other entity and which may be destroyed or discontinued must be transferred to the State Archives for preservation and to provide a centralized location for historical records. Public records include papers, correspondence, forms, record books, photographs, film, sound recordings, maps, compact discs, and machine-readable material. The State Archives must:

- manage and centralize the archives for reference and preservation purposes;
- inspect, inventory, catalog, and arrange retention and transfer schedules for all records of all state agencies and departments;
- ensure the maintenance and security of all state public records, and safeguard against unauthorized removal or destruction;
- establish rules for the archival process;
- assist and train state and local agencies in the archival process; and
- solicit, accept, and expend donations for the State Archives.

Summary: Records that are confidential, privileged, or exempt from public disclosure retain that status after they are transferred to the State Archives. Records can become available to the public 75 years after they are created if the State Archivist and the originating jurisdiction agree that they should be open to the public. If the originating agency no longer exists, the State Archivist must decide whether the records can become available to the public. If the originating jurisdiction determines that a record is confidential, privileged, or exempt for a period of less than 75 years, the records will be open to the public at the end of that period.

Votes on Final Passage:

House	97	0
Senate	48	0

Effective: July 27, 2003

HB 1154

C 164 L 03

Funding oral history and archives activities.

By Representatives Haigh, Woods, Miloscia, Armstrong, Hunt, Nixon, Shabro, Sehlin, Tom, Wallace, Conway and McDermott; by request of Secretary of State.

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

Background: Among the programs under the jurisdiction of the Secretary of State (Secretary) are the Division of Archives and Records Management (Division), the Oral History Program, and the State Library. The Division is responsible for historical records preservation and public records management and ensures citizen and government accessibility to these records. The Oral History Program is responsible for recording, transcribing and publishing the recollections of legislators, state officials, and citizens involved with the state's political history. The State Library serves as the corporate library for Washington government and partners with libraries and other entities to provide ready and equitable public access to information.

In 1996 a law was passed authorizing the Secretary to accept gifts, grants, conveyances, bequests, etc., to expend any proceeds realized from these gifts, except as limited by the donor's terms, and to adopt rules to govern and protect the receipt and expenditure of the proceeds.

A provision of state law prohibits state officials, state employees, and state legislators from soliciting or accepting contributions for a public office fund, for a candidate or authorized committee, or to retire a campaign debt during the period beginning 30 days before a regular legislative session through 30 days past the date of final adjournment. The provision also applies for periods when a special legislative session is convened.

Summary: The Secretary may solicit gifts, grants, conveyances, bequests, and devises, of real or personal property, or both, in trust or otherwise, and sell, lease, exchange, invest, or expend these donations or the proceeds, rents, profits, and income from the donations except as limited by the donor's terms. Solicitation and receipt of gifts may be used only for conducting oral histories, archival activities, and State Library activities.

All moneys received for these purposes must be deposited in the Oral History, State Library, and Archives Account (Account) created in the custody of the State Treasurer, and expenditures from the Account may be made only for the purposes of the Oral History Program, the Archives Program, and the State Library Program. Only the Secretary, or the Secretary's designee, may authorize expenditures from the Account. An appropriation is not required for expenditure, but the Account is subject to allotment procedures.

Persons soliciting or accepting contributions for these programs are exempt from the limitation of soliciting or accepting contributions 30 days before and after regular legislative session and during special session.

Votes on Final Passage:

House	94	0
Senate	45	3

Effective: July 27, 2003

ESHB 1163

PARTIAL VETO

C 360 L 03

Making 2001-03 and 2003-05 transportation appropriations.

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

House Committee on Transportation

Background: The transportation budget provides appropriations to the major transportation agencies including: the Department of Transportation (DOT); the Washington State Patrol (WSP); the Department of Licensing (DOL); the Traffic Safety Commission, the Transportation Improvement Board, the County Road Administration Board, and the Freight Mobility Strategic Investment Board. The budget also provides appropriations out of transportation funds to many smaller agencies with transportation functions.

Summary: Appropriations for the 2003 Supplemental Transportation Budget and the 2003-05 Biennial Transportation Budget are provided.

2003 Supplemental Transportation Budget

Department of Transportation (DOT):	$5.956 million
Washington State Patrol (WSP):	$ (359,000)
Department of Licensing (DOL):	$ 911,000
Bond Retirement and Interest Reduction:	$ (16.830 million)
Total Revisions to the 2001-03 Biennial Appropriations:	$ (10.322 million)

- $5.626 million is provided for increased indemnity and tort defense with biennium to date spending and actuarial supported projections.
- $1.938 million is provided for increased ferry fuel costs and increased insurance premiums.
- Reductions of $1.056 million were included for deferred DOT projects, WSP federal unanticipated revenue, budget reductions and maintenance level adjustments for the DOT, the WSP and the DOL.
- Bond retirement and interest were reduced $16.830 million for reduction in interest rates.

2003-05 Biennial Transportation Budget

Department of Transportation:	$ 3.609 billion
Transportation Improvement Board:	$201 million
County Road Administration Board:	$ 94 million
Washington State Patrol:	$251 million
Department of Licensing:	$186 million
Traffic Safety Commission:	$ 21 million
Small agencies with transportation functions:	$ 13 million
Total Agency Appropriations:	$ 4.375 billion
Bond Retirement and Interest:	$352 million
Total Appropriations:	$ 4.727 billion

- The Transportation Improvement Board, the County Road Administration Board and the Freight Mobility Strategic Investment Board remain as separate agencies.
- The 2003-05 appropriations includes existing revenues, new revenues and re-appropriations of $742 million of which $613 million is for the Tacoma Narrows Bridge.
- $315 million is provided for the operation of the ferry system. The budget maintains passenger-only service to Vashon and temporary service to Bremerton. The budget maintains existing auto ferry routes.
- $289 million is provided for highway maintenance.
- $428 million is provided for traffic operations, information technology, transportation planning, data and research, management, and other support costs associated with the operation of the DOT.
- $661 million is provided for highway preservation, $183 million for ferry capital, and $1.597 billion for highway improvements of which $613 million is the Tacoma Narrows Bridge.
- $29 million is provided for traffic operations capital, $46 million for rail capital, $17 million for plant construction and $44 million for local capital needs.
- $288 million is provided for capital projects through the Transportation Improvement Board and the County Road Administration Board.
- $251 million is provided for operations and capital for the Washington State Patrol.
- $186 million is provided for the operations of Department of Licensing.
- $21 million is provided for the operations of the Traffic Safety Commission.
- $20 million is provided for the operations of agencies with transportation related activities for the state's share of the net increase in medical and pension rates.
- $352 million is provided for debt payments (principle and interest) on bonds.

Engrossed Substitute House Bill 2231 provides new revenue and the revenue is assumed to implement the 2003-05 appropriations.

- The Transportation 2003 Account is created in the Motor Vehicle Fund. Money in the Account may only be spent on projects identified as Transportation 2003 projects and the debt service on the bonds sold to fund the projects. Once the projects have been completed, moneys in the Account can only be spent on the debt service to pay off the bonds, and if there are additional funds in the Account, they may be spent on maintenance of the Transportation 2003 projects.
- Beginning July 1, 2003, the state gas tax and special fuel tax are increased by 5 cents per gallon. All of the revenue generated by the increase is deposited into the Transportation 2003 Account. The increase in the gas tax expires when the bonds sold to pay for the Transportation 2003 projects are retired.
- Beginning August 1, 2003, the gross weight portion of the combined licensing fee paid by trucks, tractors, and buses is increased by 15 percent for vehicles over 10,000 pounds. The proceeds from the increased percentage must be deposited in the Transportation 2003 Account.
- Beginning July 1, 2003, the sales and use tax applicable to motor vehicles is increased by three tenths of 1 percent. The revenues collected from the increase in the tax on motor vehicles must be deposited in the Multimodal Transportation Account. Farm tractors, farm vehicles, off road and nonhighway vehicles and snowmobiles are not included.
- The rate at which refund distributions are calculated for off-road vehicles, snowmobiles, marine usage is increased by 1 cent in each of the next five bienniums.
- By November 1, 2003, the Department of Licensing must offer the option to retain license plate numbers at the time of replacement for $20. The Department of Licensing must offer special license plate design services for a fee of $1,500 and then $500 for each rendition thereafter. If House Bill 2065 becomes law by June 30, 2003, the portion of ESHB 2231 regarding licenses plates becomes null and void.
- A bond authorization of $2.6 billion is assumed over 10 years to be repaid with the gas tax increase. A bond authorization of $349.5 million is assumed, to be repaid with the sales tax increase.

Votes on Final Passage:

House	57	40	
Senate	41	8	(Senate amended)
House			(House refused to concur)
Senate	48	1	(Senate amended)
House	71	27	(House concurred)

Effective: May 19, 2003

Partial Veto Summary: The sections providing funding to implement House Bill 2065 (digital license plates) were vetoed. Also vetoed were provisions that did not allow the scope of highway projects to be expanded due to additional federal funding and restricting high occu-

pancy vehicle lanes in Clark County until certain requirements were met.

VETO MESSAGE ON HB 1163-S

May 19, 2003

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 212(4); 305(13); 305(15); 306(7); and 409, Engrossed Substitute House Bill No. 1163, entitled:

"AN ACT Relating to transportation funding and appropriations;"

Section 212(4), Page 12, House Bill No. 2065

This proviso allocates $2,901,000 from the motor vehicle account - state to the Department of Licensing (DOL) for implementation of House Bill No. 2065 relating to new license plate technology.

House Bill No. 2065 would require DOL to phase-in digital license plates starting July 1, 2004, with full implementation by January 1, 2007.

With so many other pressing transportation demands, the substantial six-year cost of $10.3 million is not warranted at this time. However, I support digital license plate technology and intend to retain the twenty-five cent registration fee for deposit in the license plate technology account as provided in House Bill No. 2065. While providing the savings for this eventual transition, we can take a more deliberative approach to designing a system that best fits the state's needs. I intend to veto much of House Bill No. 2065, thus, this proviso is unnecessary.

In the meantime, I have directed the DOL to continue to explore new and innovative ways to utilize technology advancements to improve services and to provide the most cost effective business practices possible. We will continue to work with the appropriate legislative committees to address the intent of House Bill No. 2065 in a more cost effective manner.

Section 305(13), Page 29, Department of Transportation - Improvements - Program I

Section 305(13) would have prevented federal funds from being used to expand the scope of any improvement project receiving appropriation in section 305.

The provisions outlined in this subsection could unnecessarily limit the department from receiving federal funds earmarked for an existing transportation improvement project. I believe it is unwise to preclude the expenditure of federal monies that may even further advance these projects.

Section 305(15), Page 29, Department of Transportation - Improvements - Program I

Section 305(15) would have prevented the continued operation of the high-occupancy vehicle (HOV) lane pilot project in Clark County, which was established in partnership with the Regional Transportation Council.

The provisions outlined in this subsection would effectively eliminate the ability to continue the HOV pilot project in Clark County. There is strong support by a majority of local agencies in Clark County to continue this pilot project for two more years. Additionally, the HOV lane is achieving six of the eight goals established at the beginning of the pilot project.

Section 306(7), Page 30, Department of Transportation - Preservation - Program P

Section 306(7) would have prevented federal funds from being used to expand the scope of any preservation project receiving appropriation in section 306.

The provisions outlined in this subsection could unnecessarily limit the department from receiving federal earmarks for existing preservation projects. I believe it is unwise to preclude the expenditure of federal monies that may even further advance these projects.

Section 409, Page 39, For the State Treasurer - Transfers

This section transfers $2,901,000 from the License Plate Technology Account to the motor vehicle account - state pursuant to House Bill No. 2065, which I intend to veto substantial portions of. For the reasons outlined with respect to section 212(4) above, this transfer is not required.

I also have concerns about the following section of this bill that I would have vetoed but for the following interpretations of legislative intent.

Section 225(3), Page 22, Multimodal Transportation Account - State

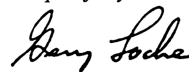
This section directs the Washington State Ferries to "...develop a plan to increase passenger-only farebox recovery to at least forty percent by July 1, 2003 with an additional goal of eighty percent, through increased fares, lower operating costs, and other cost- saving measures as appropriate." Given that the time required to implement a fare increase sufficient to achieve 40% farebox recovery would extend well beyond July 1, 2003, I therefore understand the intent of this proviso to mean that the Washington State Ferries must complete the referenced plan by July 1, 2003 and report on the plan to the transportation committees of the legislature by December 1, 2003.

In order to implement the aforementioned plan, subsection 225(3) also authorizes the Washington State Ferry System to "...negotiate changes in work hours (requirements for split shift work), but only with respect to operating passenger-only ferry service..." I believe that this proviso is in no way intended to limit or alter the rights of ferry system management or ferry system employee organizations under RCW 47.64.120 to negotiate with respect to work hours and schedules for auto ferry service.

For these reasons, I have vetoed sections 212(4); 305(13); 305(15); 306(7); and 409 of Engrossed Substitute House Bill No. 1163.

With the exception of sections 212 (4); 305(13); 305(15); 306(7); and 409, Engrossed Substitute House Bill No. 1163 is approved.

Respectfully submitted,



Gary Locke
Governor

HB 1170
C 286 L 03

Limiting restrictions on residential day-care facilities.

By Representatives Romero, Hunt, Cooper, Simpson and Chase.

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

Background: Cities and towns may not prohibit the use of residential dwellings as family day-care provider facilities in areas zoned for residential or commercial use. "Family day-care provider" is defined as a child day-care provider who regularly provides child day care for not more than 12 children in the provider's home in the family living quarters.

Cities and towns may, however, require specific conditions to be met by the facility, including:

- conformity with building, fire, safety, health code, business licensing, and signage requirements;

- compliance with lot and building conditions applicable to the zone;
- requiring specific certification for a safe passenger loading area; and
- limiting hours of operation to facilitate neighborhood compatibility, while providing appropriate opportunities for day-care users with nonstandard work shifts.

Cities and towns also may require the family day-care provider, prior to state licensing, to provide written proof indicating that immediately adjoining property owners have been notified of the intent to locate and maintain a family day-care provider facility. The day-care licensor may provide a forum for resolving disputes over licensing requirements between neighbors and the day-care provider.

Cities and towns also may impose zoning conditions on the establishment and maintenance of a family day-care provider's home. Establishment and maintenance conditions must not be more restrictive than those imposed on other residential dwellings in the same zone and cannot preclude establishing such facilities.

Summary: Counties, as well as cities and towns, may not prohibit the use of residential dwellings as family day-care provider facilities for 12 or fewer children in areas zoned for residential or commercial use. The same conditional zoning and regulatory requirements that cities and towns may apply are extended to counties. Existing statutory provisions for cities and towns permitting adjacent property owner notification requirements, providing for dispute resolution forums, and the imposing of specific, non-preclusive zoning conditions for day-care providers are also extended to counties.

Votes on Final Passage:

House	92	5
Senate	48	0

Effective: July 27, 2003

SHB 1173

PARTIAL VETO

C 346 L 03

Revising provisions for the office of the Washington state trade representative.

By House Committee on Trade & Economic Development (originally sponsored by Representatives Veloria, Conway and Chase).

House Committee on Trade & Economic Development
House Committee on Appropriations
Senate Committee on Commerce & Trade

Background: Washington's economy relies significantly on international trade, which is often governed by trade agreements and international organizations. The North American Free Trade Agreement (NAFTA), the General Agreements on Tariffs and Trade (GATT), and the World Trade Organization (WTO) are examples of international agreements and organizations that can and do have an impact on Washington businesses.

The Office of the Washington State Trade Representative (WSTR) was created by the Legislature in 1995. The WSTR is the state's official liaison to foreign governments on trade matters.

The WSTR is authorized to accept or request grants or gifts from citizens and other private sources. These funds may be used to help defray the costs of hosting foreign dignitaries and other activities of the WSTR. The WSTR must open and maintain a bank account for the deposit of all receipts of grants and gifts. All money and interest earned in the WSTR bank account are not considered public funds and are not subject to appropriation or the state's budgeting, accounting, or reporting requirements.

Summary: The duties of the WSTR are expanded to include working with the Department of Community, Trade and Economic Development (DCTED), the Washington State Department of Agriculture (WSDA), and other appropriate state agencies to review and analyze proposed international trade agreements and their impact on Washington businesses. This must be done within existing resources. The WSTR is directed to provide input to the office of the United States Trade Representative about policy developments that could affect Washington.

In addition, the WSTR must work with the International Trade Division at the DCTED and the International Marketing Program at the WSDA to develop a statewide strategy to increase the export of Washington goods and services.

The WSTR will serve as a liaison to the Legislature on matters of trade policy and keep the Legislature informed about the ongoing trade negotiations, trade developments and any possible impacts on the Washington economy. In addition, the WSTR office shall prepare and submit an annual report on its activities and deliver it to the Governor and the appropriate standing committees of the Legislature. Finally, the WSTR shall conduct other activities to promote international trade and foreign investment within the state as directed by the Governor.

The language authorizing the WSTR to accept private monies and maintain a separate account is moved to a stand-alone section.

Votes on Final Passage:

House	95	0	
Senate	45	0	(Senate amended)
House			(House refused to concur)
Senate	47	0	(Senate receded)

Effective: July 27, 2003

Partial Veto Summary: The Governor vetoed the section requiring an annual report.

VETO MESSAGE ON HB 1173-S

May 16, 2003

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(3) Substitute House Bill No. 1173 entitled:

"AN ACT Relating to the office of the Washington state trade representative;"

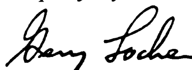
This bill expands and clarifies the duties of the Washington State Trade Representative.

Subsection (3) of section 2 requires the Office of the Washington State Trade Representative to submit an annual report. While I have no objection to the other amendments in this section, the ongoing reporting requirement is unnecessary given the coordination prescribed by the bill.

For these reasons, I have vetoed section 2(3) of Substitute House Bill No. 1173.

With the exception of section 2(3), Substitute House Bill No. 1173 is approved.

Respectfully submitted,



Gary Locke
Governor

SHB 1175
C 267 L 03

Making it a crime to traffic in persons.

By House Committee on Criminal Justice & Corrections (originally sponsored by Representatives Veloria, Roach, O'Brien, Conway, Clements, Lantz, Linville, Moeller, Delvin, Benson, Darneille, Kenney, Kessler, Simpson, Chase, McMahan and Upthegrove).

House Committee on Criminal Justice & Corrections
Senate Committee on Judiciary
Senate Committee on Children & Family Services & Corrections

Background: Trafficking. The definition of trafficking varies, but it can generally be defined as any act that involves the recruitment or transportation of a person, within or across national borders, for work or services, by means of violence or threat of violence, debt bondage, deception, or other coercion. A person may be trafficked for a number of reasons including forced prostitution, exploitative domestic service in private homes, and indentured servitude in sweatshops.

The United Nations estimates that criminal groups make more than $7 billion annually from trafficking human beings. Originally, Latin America and Asia were the main sources for the trafficking business. However, over the last decade or so, persons from Germany and Russia have added to the market economy of trafficking.

Washington has statutes that punish a person for certain prostitution types of offenses. Unlike federal law, it does not have a criminal statute specifically prohibiting the trafficking of persons. Federal law governing trafficking crimes prohibits these types of offenses which are generally punishable by a fine and up to 20 years of incarceration. If death results from the violation of a trafficking offense, or if the violation includes kidnapping, aggravated sexual abuse, or a victim under the age of 14 years old at the time of the offense was involved, then the punishment can increase to life imprisonment.

The maximum sentence for all class A felonies under Washington's statute is life imprisonment and a $50,000 fine.

Aggravating Factor. The standard sentencing range is presumed to be appropriate for the typical felony case. However, the law provides that in exceptional cases, a court has the discretion to depart from the standard range and may impose an exceptional sentence below the standard range (with a mitigating circumstance) or above the range (with an aggravating circumstance). The Sentencing Reform Act (SRA) provides a list of illustrative factors that a court may consider in deciding whether to impose an exceptional sentence outside of the standard range. Some of the illustrative aggravating factors provided by the SRA include: behavior that manifested deliberate cruelty to a victim; vulnerability of a victim; sexual motivation on the part of the defendant; and an ongoing pattern of multiple incidents of abuse to a victim.

Criminal Profiteering. In 1970 Congress enacted the Racketeering Influenced and Corrupt Organizations (RICO) Act to combat organized crime. Later in 1985 Washington's Legislature passed the Criminal Profiteering Act (formerly called the Racketeering Act) which is similar in many ways to the federal RICO Act. It created several new felonies for engaging in certain acts and patterns of activity that constitute organized crime and criminal profiteering.

"Criminal profiteering" includes the commission, for financial gain, of any one of a number of crimes listed in the statute. Among the crimes which may constitute profiteering are: Violent felonies and felonies associated with gambling; drugs; pornography; prostitution; extortion; and securities fraud. The crime of "trafficking" is not included in the definition of criminal profiteering.

In addition to its criminal penalties, the Criminal Profiteering Act provides the following three civil remedies: (a) monetary penalties; (b) injunctive remedies; and (c) forfeiture. Monetary penalties include the actual damages payable to the victim, resulting from an act of criminal profiteering or of leading organized crime. The court has the discretion to triple those damages. The court may also order the defendant to pay a civil fine of up to $250,000 and the costs and expenses of the litigation. Injunctive remedies may include court orders

restricting the defendant's future activities or investments.

Forfeiture penalties include forfeiting:

- Any property or other interest acquired or maintained by a person in violation of the statutes on leading organized crime to the extent of the investment of funds and any appreciation or income attributable to the investment;
- Any property, contractual right, or claim against property used to influence any enterprise that a person has established, operated, controlled, conducted, or participated in the conduct of, in violation of the statutes on leading organized crime; and
- All proceeds traceable to or derived from an offense included in the pattern of criminal profiteering activity and all moneys, negotiable instruments, securities, and other things of value significantly used or intended to be used to facilitate commission of the offense.

Initiation of civil proceedings must commence within three years of discovery of the pattern of criminal profiteering activity or after the pattern should reasonably have been discovered.

Summary: Two crimes relating to the trafficking of persons are created. In addition, the definition of criminal profiteering in the Criminal Profiteering Act is expanded to include the crime of trafficking.

Trafficking. A person is guilty of trafficking in the second degree, whether he or she benefitted financially or received anything of value, when the perpetrator knowingly recruited, harbored, transported, provided, or obtained by any means, another person, knowing that force, fraud, or coercion would be used to cause the victim to engage in forced labor or involuntary servitude. Trafficking in the second degree is a seriousness level XII, class A felony offense. The standard sentence range is 93 to123 months for a person convicted of a seriousness level XII offense.

A person is guilty of trafficking in the first degree if, in the process of violating trafficking in the second degree, his or her criminal act results in a death, involves kidnapping or an attempt to commit kidnapping, or involves a finding of sexual motivation. Trafficking in the first degree is a seriousness level XIV, class A felony offense. The standard sentence range is 123 to 220 months for a person convicted of a seriousness level XIV offense.

Aggravating Factor. The list of illustrative aggravating factors in the SRA is expanded to include any trafficking crime that is committed where the victim involved in the trafficking offense was a minor at the time of the offense.

Criminal Profiteering. The crime of trafficking is included in the Criminal Profiteering Act. A person convicted of trafficking activity will, in addition to criminal penalties, be subject to the same civil remedies as listed in the Criminal Profiteering Act which includes: (a) monetary penalties; (b) injunctive remedies; and (c) forfeiture.

Initiation of civil proceedings must commence within three years of discovery of the pattern of criminal profiteering activity or after the pattern should reasonably have been discovered, or three years after the final disposition of any criminal charges relating to the trafficking offense, whichever is later.

Votes on Final Passage:

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

Effective: July 27, 2003
July 1, 2004 (Section 3)

HB 1179
C 347 L 03

Renaming the legislative committee on economic development the legislative committee on economic development and international relations.

By Representatives Veloria, Roach, Bush, Kenney, Kessler, Grant and Chase; by request of Lieutenant Governor.

House Committee on Trade & Economic Development
Senate Committee on Economic Development

Background: The Legislative Committee on Economic Development (Committee) was created in 1985. The purpose of the Committee is to provide responsive and consistent involvement by the Legislature in economic development to maintain a healthy state economy and to provide employment opportunities to Washington residents.

The Committee consists of six state senators and six state representatives and the Lieutenant Governor, who serves as the Committee's chairperson. The Committee may establish subcommittees, including a subcommittee on international trade and a subcommittee on industrial development.

The Committee is authorized to study and review economic development issues, including international trade, tourism, investment and industrial development. The Committee is to assist the Legislature in developing a comprehensive and consistent economic development policy.

Summary: The Legislative Committee on Economic Development shall be called the Legislative Committee on Economic Development and International Relations.

Votes on Final Passage:

House	95	0
Senate	48	0

Effective: July 27, 2003

SHB 1189

C 125 L 03

Revising authority of public hospital districts to pay recruitment expenses and employee training and education expenses.

By House Committee on Health Care (originally sponsored by Representatives Alexander, Cody, Skinner, Schual-Berke, Pflug, Morrell, Moeller, Darneille, Clibborn, Campbell and Bailey).

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

Background: Public hospital districts are types of municipal corporations that are authorized to operate hospitals and other health care facilities and provide other hospital and health care services within a specified community. In addition to hospital services, these services may include nursing homes, extended care, long-term care, outpatient and rehabilitation facilities, and ambulance services.

As government entities, the authority of public hospital districts is specifically stated in statute. Public hospital districts may survey existing hospitals and health care facilities, manage property, lease facilities and equipment, borrow money, issue and sell bonds, and raise revenue through levies. Public hospital districts may also reimburse candidates for certain positions for their travel and living expenses associated with attending an interview when an interview is deemed necessary or desirable to achieve adequate staffing. In addition, they may enter into contracts and employ staff, including superintendents, attorneys, and other assistants and employees.

Summary: Public hospital districts are authorized to pay for the travel and living expenses of candidates for medical, superintendent, and other managerial and technical positions including other health care practitioners and the expenses of family members accompanying the candidate.

Public hospital districts are authorized to enter into contracts with current or prospective employees or medical staff members to provide payment or reimbursement for health care training or education expenses, including debt obligations, in exchange for their services.

Votes on Final Passage:

House	97	0
Senate	49	0

Effective: July 27, 2003

SHB 1195

C 16 L 03

Limiting the liability of landowners for unintentional injuries incurred while rock climbing.

By House Committee on Judiciary (originally sponsored by Representatives Delvin, Dunshee, Hinkle, Lovick, Mastin, Armstrong, Sump, Fromhold, Quall, Hatfield, Blake, Lantz, Mielke and McMahan).

House Committee on Judiciary
Senate Committee on Judiciary

Background: The Legislature has changed the common law on the liability of landowners for injuries incurred by certain recreational users of land. In specified cases, a statute provides that landowner liability exists only for intentional harm.

At common law, on the other hand, a landowner may be liable for unintentionally causing harm through acts of negligence, gross negligence, or recklessness, as well as through intentional acts. A landowner's liability at common law depends in part on the status of the injured party. That is, a landowner's duty to a particular person varies depending on whether the person is, for instance, a trespasser or an invitee. Generally, a landowner's duty to a trespasser is only to refrain from willfully or wantonly injuring the person, while the duty owed an invitee is to use ordinary care to keep the property reasonably safe.

A statute prescribes a different rule in the case of a landowner who allows members of the public to use his or her land for certain recreational purposes. This statutory provision applies to both private and public landowners. Generally, if a landowner allows the public to use the land for recreational purposes without charge, then the landowner is liable only for injuries that the landowner intentionally causes. This insulation from liability does not apply to an injury caused by a "known dangerous artificial latent condition" when the landowner has not posted conspicuous warning signs. In order for this exception to apply, the landowner must have had actual knowledge of an artificial condition that is not readily apparent to a recreational user and that presents an unreasonable risk of harm, and then must have failed to post a warning.

The statute insulating landowners from liability applies to "outdoor recreation" including, but not limited to, certain specified activities. These activities are:

- gathering firewood;
- hunting, fishing, clam digging;
- camping, picnicking;
- swimming, hiking, bicycling;
- riding horses or other animals;
- driving off-road vehicles, snowmobiles, and other vehicles;
- boating and water sports;
- winter sports;

- nature study;
- viewing historical, archaeological, scenic, or scientific sites;
- skateboarding and other nonmotorized wheel-based activities; and
- hanggliding, and paragliding.

Summary: Rock climbing is added to the list of recreational activities for which a landlord may be immune from civil liability for injury or death caused by the landlord's unintentional acts.

A fixed climbing anchor put in place by someone other than the landowner is not a "known dangerous artificial condition" for which a landowner might be liable.

The Legislature expresses its intent that the specific inclusion of rock climbing does not imply that other related recreational activities are not also covered by these immunity provisions.

Votes on Final Passage:

House	91	0
Senate	47	0

Effective: July 27, 2003

HB 1200

PARTIAL VETO

C 294 L 03

Correcting retirement system statutes.

By Representatives Conway, Pflug and Cooper; by request of Joint Committee on Pension Policy.

House Committee on Appropriations
Senate Committee on Ways & Means

Background: Omitted cross-references to the School Employees' Retirement System. The law authorizing employers to implement "employer pick up" of all member contributions references all systems except the School Employees' Retirement System (SERS). Also, unlike the Public Employees' Retirement System (PERS) and the Teachers' Retirement System (TRS), the SERS is not listed among those plans to which members of the Law Enforcement Officers' and Fire Fighters' Retirement System Plan 1 (LEOFF 1) may irrevocably elect to transfer their LEOFF 1 service.

Erroneous cross-references. A cross-reference in the LEOFF 2 survivor benefits provisions does not clearly reference the applicable subsection of the LEOFF 2 retirement age rules.

A cross-reference in the PERS 3 gain-sharing law incorrectly refers to a definition for "retiree" in the PERS chapter, rather than the equivalent definition in the defined contribution chapter. A reference in the SERS application for retirement section to a section on the right to a hearing should instead be to the section on eligibility for a retirement allowance.

A cross-reference in the Pension Funding Council (PFC) relating to the amortization period for Plan 1 is erroneous because of amendments to the same section during the 2001 session.

Necessary cross-references to the separate single-life benefits payable to the ex-spouse of members are missing from the Department of Retirement Systems (DRS) rules on payments after the death of a member.

There is an inadvertent omission of cross-reference to the PERS Plan 3 in the portability of benefits chapter.

A reference to Washington State Patrol Retirement Systems (WSPRS) disability benefits is inaccurate, as the change to the disability benefits was vetoed.

Administrative funding language does not reflect current practice. The funding for the Office of the State Actuary (OSA) is provided by the Legislature as an appropriation from the DRS Expense Fund. The law states, however, that funding for the OSA is provided by reimbursement for services to the DRS, paid from the DRS Expense Fund.

Several sections contain inadvertently duplicated language. A payment options section in the PERS 2 erroneously refers to distributions from the PERS 3 gain-sharing following divorces, which cannot occur. Some language on the same issue was duplicated in the PERS 3 payment options language, and some was erroneously amended into the equivalent section of the PERS 2.

The WSPRS rules on the payment of accumulated contributions to survivors upon the member's death are erroneously duplicated.

The WSPRS service credit transfer provisions are unclear. Language dealing with the transfer of certain service credit from the PERS to the WSPRS is unclear on the return of contributions to members in the event that the transfer payment is not completed.

Summary: Omitted cross-references to the School Employees' Retirement System. The SERS is added to the list of systems that allow "employer pick up" of contributions, and to the list of systems into which former LEOFF 1 members may transfer service credit.

Erroneous cross-references. The erroneous cross-references in the LEOFF 2 survivor benefits section, the PERS 3 gain-sharing section, the SERS application for retirement section and the PFC section related to amortization of the unfunded Plan 1 liabilities are corrected.

Correct cross-references are added to the separate single-life benefits provisions in the DRS rules on the payment of divided benefits following the death of a member, and to the PERS 3 in the list of plans covered by the portability rules.

The reference to disability benefits in the WSPRS is corrected to match the change created by the Governor's veto in 2001.

Administrative funding language does not reflect current practice. The funding provisions for the OSA are changed to reflect current budgeting practice.

Several sections contain inadvertently duplicated language. Duplicate language is removed from the PERS 3 rules on distributions following divorces and the WSPRS rules on repayment of accumulated contributions.

The WSPRS service credit transfer provisions are unclear. The WSPRS service credit transfer language related to return of member contributions in the event that the member does not complete the transfer payments is clarified.

Votes on Final Passage:

House	95	0
Senate	49	0

Effective: July 27, 2003
January 1, 2004 (Section 4)

Partial Veto Summary: The Governor vetoed a section amending a statute already amended in the same manner in another act. This vetoed section makes a technical change to conform the method of funding the Office of the State Actuary to current budgetary practice.

VETO MESSAGE ON HB 1200

May 14, 2003

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 16, House Bill No. 1200 entitled:

"AN ACT Relating to correcting retirement system statutes;"

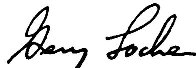
This bill makes technical corrections to the pension statutes.

Section 16 of the bill references a section of law that is repealed by Substitute House Bill No. 1204, which I also signed today. Therefore, I am vetoing section 16 of House Bill No. 1200 to avoid confusion.

For this reason, I have vetoed section 16 of House Bill No. 1200.

With the exception of section 16, House Bill No. 1200 is approved.

Respectfully submitted,



Gary Locke
Governor

SHB 1202

C 293 L 03

Allowing fire fighter emergency medical technicians to transfer public employees' retirement system service credit to the law enforcement officers' and fire fighters' plan 2.

By House Committee on Appropriations (originally sponsored by Representatives Simpson, Cooper, Delvin, Conway, Pflug, Hinkle, McDermott and Chase; by request of Joint Committee on Pension Policy).

House Committee on Appropriations
Senate Committee on Ways & Means

Background: Emergency Medical Technicians (EMTs) employed by local governments in health departments or other divisions of local governments are members of the Public Employees' Retirement System (PERS). EMTs employed by local governments in fire departments who are also qualified fire fighters are members of the Law Enforcement Officers' and Fire Fighters' Retirement System (LEOFF).

All employees first employed in PERS-eligible positions since 1977 have been enrolled in PERS Plan 2/3, which allows for an unreduced retirement allowance at age 65. All employees first employed in LEOFF-eligible positions since 1977 have been enrolled in LEOFF Plan 2, which allows for an unreduced retirement allowance at age 53. Those first employed in PERS and LEOFF-eligible positions before 1977 may be eligible to resume participation in PERS 1 or LEOFF 1 upon resumption of eligible employment.

Some EMTs have had their jobs moved from various local government entities to fire departments. Upon meeting all of the requirements to become fire fighters, such as training and passing applicable examinations, these EMTs employed at fire departments become members of LEOFF.

Members with service in both PERS 2 and LEOFF 2 may use the portability provisions of state retirement law to combine years of service and average salary for purposes of retirement eligibility, but the retirement ages of each plan still apply to the benefit receivable from each plan. The consequence of this is that only a greatly reduced PERS 2 benefit would be available to a member with service in PERS 2 and LEOFF 2 at the LEOFF 2 normal retirement age.

At least one local government employer has moved EMTs from a department such as a health department to a fire department, and those EMTs have become fire fighters and members of LEOFF. Several other local government employers are in various stages of considering a similar movement of EMTs to fire departments.

Summary: EMTs who were previously members of PERS but who are transferred to a fire department and become members of LEOFF 2 may choose to: 1) transfer to LEOFF 2 for future service credit; 2) remain in PERS; or 3) become members of LEOFF 2 and transfer previous service credit earned as an EMT in PERS to LEOFF 2.

An EMT who reenters LEOFF 1 after being transferred to a fire department may choose to remain in PERS or return to LEOFF 1 membership, but may not transfer service between the plans.

A member electing to transfer eligible service from PERS to LEOFF 2 must pay the retirement system the difference in contributions, plus interest, that would have been paid by the employee if the employee's entire

service was rendered in LEOFF 2. The employee must make the payment within five years from the date of application to transfer service credit.

No earlier than five years after the date the member applies to transfer service credit, and following completion of the employee payments, the past service credit is transferred from PERS to LEOFF 2 and the employee may use the transferred service to retire from LEOFF 2.

Additional employer contribution costs generated by the transfer of PERS service credit into LEOFF 2 are distributed among all LEOFF 2 employers, employees, and the state through the contributions paid into the retirement system.

The act expires July 1, 2013.

Votes on Final Passage:

House	97	0
Senate	46	0

Effective: July 27, 2003

SHB 1204

C 295 L 03

Creating the select committee on pension policy.

By House Committee on Appropriations (originally sponsored by Representatives Fromhold, Delvin, Conway, Alexander, Pflug, Anderson, Cooper and Chase; by request of Joint Committee on Pension Policy).

House Committee on Appropriations
Senate Committee on Ways & Means

Background: Prior to 1976, the major state retirement systems were under the oversight of boards of trustees that had such functions as the investment of the retirement funds, hiring the executive director, contracting for actuarial services, and proposing legislation to improve benefits for members and retirees.

In 1976, following a period of rapid increases in pension benefits and costs, the Legislature created the Department of Retirement Systems (DRS), with a director appointed by the Governor, to assume most of the oversight duties of the various retirement boards. The Office of the State Actuary (OSA) was also created in 1976 to provide all retirement system actuarial services for both DRS and the Legislature, including the studies used for setting contribution rates and determining the cost of proposed legislation. The OSA was established as an office in the legislative branch.

In 1981 the State Investment Board (SIB) was created to manage the investment of the assets of the state retirement systems. The SIB has nine voting members and four non-voting members who are investment professionals.

In 1987 the Joint Committee on Pension Policy (JCPP) was created to study pension benefit and funding policies and issues and to appoint or remove the State Actuary by a two-thirds vote. The JCPP consists of eight members of the Senate and eight members of the House of Representatives, split evenly between the two largest caucuses of each body. The OSA provides staffing to the JCPP.

In 1995 the Employee Retirement Benefits Board (ERBB) was created. The ERBB oversees certain aspects of the Teachers' Retirement System Plan 3, Public Employees' Retirement System Plan 3, School Employees' Retirement System Plan 3 and the state's deferred compensation program.

In 1998 the Pension Funding Council (PFC) was created to adopt the long-term economic assumptions and employer contribution rates for most of the state's retirement systems. The PFC also administers audits of the actuarial analysis produced for the PFC by the State Actuary. The membership of the PFC consists of the chair and ranking minority members of the Senate Ways and Means Committee and the House Appropriations Committee, and the directors of the Office of Financial Management (OFM) and DRS.

In 2002 the voters passed Initiative 790, creating a Law Enforcement Officers' and Fire Fighters' Retirement System Plan 2 (LEOFF 2) board of trustees. The LEOFF 2 Board statute becomes effective on July 1, 2003. The intent of I-790 is in part to replace the functions of the JCPP and the PFC with respect to LEOFF 2.

Summary: The JCPP is repealed and its duties, except for the duty of appointing and removing the State Actuary, are assumed by the Select Committee on Pension Policy (Select Committee). The duty of appointing and removing the State Actuary is assigned to the State Actuary Appointment Committee.

The Select Committee is composed of four members of the Senate, four members of the House of Representatives, four members representing active employees, two members representing retired employees, four employer representatives, and the directors of the DRS and the OFM.

The eight Select Committee members from the House of Representatives and the Senate are divided evenly between the majority and minority parties of each chamber, and at least three of the four from each chamber must be members of the House Appropriations and Senate Ways and Means committees. The House members are appointed by the Speaker, and the Senate members by the President of the Senate.

The members representing active members, retired members, and employers are appointed by the Governor to staggered three-year terms. No more than two members representing active members, and no more than one member representing retired members, may be from the same retirement system. The retiree appointments must be rotated among the retirement systems to ensure each system is periodically represented.

The Select Committee will form a five member executive committee composed of the chair and vice-chair, an employee representative, an employer representative, and either the director of the DRS or the OFM. The Select Committee may also form three subject-specific subcommittees.

Like the JCPP, the Select Committee makes recommendations to the Legislature on pension and pension funding policies and, in addition, receives the results from and makes recommendations to the Pension Funding Council on the results of actuarial audits of contribution rates and assumptions the Pension Funding Council conducts.

The State Actuary Appointment Committee (Appointment Committee) is created. The Appointment Committee consists of eight members and has the power to appoint or remove the State Actuary by a two-thirds vote. Four members of the Appointment Committee are the chairs and ranking minority members of the House of Representatives Appropriations and the Senate Ways and Means committees, and four are members of the Select Committee, including one member representing active and retired employees and one member representing employers.

The Appointment Committee may be convened by the chairs of the House Appropriations and the Senate Ways and Means committees whenever the position becomes vacant or upon the written request of four members of the Appointment Committee.

Votes on Final Passage:

House	74	24	
Senate	45	3	(Senate amended)
House			(House refused to concur)
Senate	48	1	(Senate amended)
House	79	18	(House concurred)

Effective: July 27, 2003

HB 1205
C 388 L 03

Addressing the department of fish and wildlife law enforcement officers' membership in the law enforcement officers' and fire fighters' retirement system plan 2 for periods of future service.

By Representatives Conway, Delvin, Simpson, Alexander, Cooper and Chase; by request of Joint Committee on Pension Policy.

House Committee on Appropriations
Senate Committee on Ways & Means

Background: The Department of Fish and Wildlife (DFW) was changed from a limited authority law enforcement agency to a general authority law enforcement agency by the 2002 Legislature. 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 the DFW enforcement officers in the state Wildlife Code.

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 or other requirements of his or her job.

While Washington State Patrol troopers and the DFW enforcement officers meet all the requirements of LEOFF membership, they are specifically excluded from LEOFF. Individuals who do not meet all of the criteria or are otherwise excluded from LEOFF membership are generally members of the Public Employees' Retirement System (PERS).

All employees first employed in PERS-eligible positions since 1977 have been enrolled in PERS Plan 2/3, which allows for an unreduced retirement allowance at age 65. PERS 1, in contrast, permits members to retire at any age after 30 years of service, at age 55 with 25 years of service, and at age 60 with five years of service.

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 permits early retirement beginning at age 50 for members with 20 years of service with a 3 percent per year reduction of their retirement allowance.

There are about 125 DFW enforcement officers, and about 70 of them are members of PERS 2 and 3. The remaining 55 are members of PERS 1.

Summary: The DFW enforcement officers who are members of the PERS Plan 2 or 3 are made members of the LEOFF Plan 2 for periods of service rendered after the effective date of the act.

Members with service in PERS 2 and 3 prior to the effective date of the act will have dual membership in PERS 2/3 and LEOFF 2. Members with service in PERS 1 will remain members of PERS 1.

Votes on Final Passage:

House	91	3
Senate	49	0

Effective: July 27, 2003

HB 1206

C 156 L 03

Making optional plan 3 member contributions.

By Representatives Pflug and Conway; by request of Joint Committee on Pension Policy.

House Committee on Appropriations
Senate Committee on Ways & Means

Background: Members of the Public Employees' Retirement System Plan 3 (PERS 3), the School Employees' Retirement System Plan 3 (SERS 3), and the Teachers' Retirement System Plan 3 (TRS 3) are required to choose an employee contribution rate within 90 days of beginning covered employment. Currently there are three choices of contribution rates at fixed or escalating rates between 5 and 8.5 percent of pay.

Once members have chosen a contribution rate, or by default been placed at the minimum 5 percent, members may only change their contribution rate if they change employers.

Generally federal law has prohibited retirement plans like the Plans 3 of the state retirement systems, which are tax qualified defined contribution plans under Internal Revenue Code Section 401(a), from having variable employee contribution rates. During 2002 the Department of Retirement Systems (DRS) received an advance ruling from the Internal Revenue Service (IRS) for TRS 3 to offer employees a fixed base contribution rate of 5 percent, plus an additional variable contribution rate that the employees could change each year.

The DRS has applied for similar advanced rulings on tax qualification status from the IRS for PERS 3 and SERS 3.

Summary: Each January members of PERS 3, SERS 3, and TRS 3 may change their contribution rate. In addition to the minimum contribution rate of 5 percent of pay, a member may choose to contribute according to one of six optional rate plans. The six plans offer both escalating and fixed additional rates of up to 10 percent of pay for a maximum contribution rate of 15 percent.

The first Plan 3 contribution rate change opportunity will be January 2004.

Votes on Final Passage:

House	97	0
Senate	47	0

Effective: July 27, 2003

HB 1207

C 402 L 03

Providing a death benefit for certain public employees.

By Representatives Alexander, Conway, Cooper, Simpson, Delvin and Campbell; by request of Joint Committee on Pension Policy.

House Committee on Appropriations
Senate Committee on Ways & Means

Background: Two death benefits are paid to members of the Public Employees Retirement System (PERS), the School Employees Retirement System (SERS), and the Teachers' Retirement System (TRS) for death resulting from injuries sustained in the course of employment. The first is the greater of either the member's contributions plus interest, or the member's earned retirement benefit actuarially reduced from the plan's normal retirement age to the age at death.

The second is a $150,000 death benefit payable to PERS, SERS, and TRS members for deaths resulting from injuries sustained in the course of employment, payable as a sundry claim. This $150,000 benefit is provided in budget language that expires June 30, 2003. Similar $150,000 duty-related death benefit language was also included in the 2000 supplemental operating budget.

Members of the Law Enforcement Officers' and Fire Fighters' Retirement System (LEOFF) and the Washington State Patrol Retirement System (WSPRS) have received a $150,000 duty-related death benefit payable from their respective retirement plans since 1996. The same benefit was extended to volunteer fire fighters and reserve police officers in 1998.

Survivors of members suffering duty-related deaths in LEOFF 1 and WSPRS members also receive up to 60 percent of the member's salary for the lives of eligible survivors. Survivors of LEOFF 2 members are entitled to the greater of a reduced retirement benefit or 150 percent of the member's contributions plus interest. In addition, public safety officers are eligible under the federal Public Safety Officers Benefit Act of 1976 for an inflation-indexed lump sum death benefit of approximately $157,000.

A workers' compensation death benefit may also be payable from the Department of Labor and Industries for death resulting from injury sustained in the course of employment. A lump sum benefit may be payable from the Department of Labor and Industries for burial expenses, as well as a monthly benefit of 60 percent of gross wages up to 120 percent of the state's average wage ($3,723 for Fiscal Year 2002).

The spouse or dependents of an individual covered by Social Security may be eligible for a death benefit if they meet age, income, or other restrictions. The age eligibility for the Social Security death benefit is based on an age 65 eligibility for full benefits, and reduced benefits are available beginning at age 60. The size of the Social Security death benefit is dependent on the contributions the deceased made to Social Security during the member's career. For example, the maximum family benefit that could be paid from Social Security for the death of a male of age 45 earning $40,000 per year is approximately $2,300 per month.

According to the Office of the State Actuary's 1996-2001 Actuarial Experience Study, there are about 10 duty-related deaths each biennium in the PERS, SERS, and TRS systems combined.

Summary: A $150,000 benefit for death resulting from injuries sustained in the course of employment is payable to members of PERS, TRS, and SERS. The death benefit is payable from the retirement plan of the deceased member. If the deceased employee of a state agency, the common school system, or an institution of higher education is not a member of PERS, TRS, or SERS, the death benefit is payable as a sundry claim.

Votes on Final Passage:

House	97	0
Senate	48	0

Effective: July 27, 2003

SHB 1211
C 290 L 03

Modifying accountability requirements under the public accountancy act.

By House Committee on Commerce & Labor (originally sponsored by Representatives Conway, Chandler, Kenney, Wood, Hudgins, Cooper, Veloria, Schual-Berke, Lovick, Kirby, Dickerson, Upthegrove, McDermott, Rockefeller, Morrell, Murray, Simpson, Darneille, Chase, Cody and Ruderman).

House Committee on Commerce & Labor
House Committee on Appropriations
Senate Committee on Financial Services, Insurance & Housing
Senate Committee on Ways & Means

Background: Regulation of the Accounting Industry. Accountants and accounting firms engaging in public accounting in Washington are governed by Washington's Public Accountancy Act (PAA). The PAA requires these persons and firms to obtain and maintain a certified public accountant (CPA) license. Fees must be assessed at a level adequate to administer the program.

Some of these CPAs and CPA firms are also regulated by federal law and may be licensed in other states. Under Securities and Exchange Commission (SEC) rules, standards adopted by non-governmental entities, such as the American Institute of Certified Public Accountants Auditing Standards Board, may apply to audits performed on publicly traded companies.

In 2002 the Congress enacted the Sarbanes-Oxley Act which created the Public Company Accounting Oversight Board (PCAOB) to oversee the auditing of public companies. The PCAOB must register public accounting firms that participate in the preparation of public company audits.

Compliance Reporting and Penalties. The Board of Accountancy (Board) may take action against an individual's or firm's CPA license for violations of the PAA or conviction of any crime and in response to suspension or revocation of the individual's or firm's CPA license by another state or the federal government. Similar action may be taken for violation of the Board's ethical or technical standards. CPAs and CPA firms and individuals, except those licensed through reciprocity with another jurisdiction, are not required to notify the Board of compliance actions taken by other states, the federal government, or non-governmental standard-setting entities or of related investigations.

A CPA firm must give the Board notice within 90 days after changes in partners, shareholders, or other firm owners. If a CPA firm falls out of compliance due to changes in ownership or personnel, it must notify the board within 30 days after the change and make a proposal for coming back into compliance.

Retention of Documents. The PAA does not require a CPA or a CPA firm to retain audit work papers or other documents.

The Sarbanes-Oxley Act directed the SEC to adopt rules specifying the documents that accountants must retain, and the retention period, when auditing publicly traded companies. These rules were adopted on January 23, 2003. The new SEC rules require auditors to retain certain documents for seven years after an audit. The documents to be retained include: workpapers and other documents that form the basis of the audit or review, and memoranda, correspondence, communications, other documents, and records (including electronic records), which are created, sent, or received in connection with the audit or review, and contain conclusions, opinions, analyses, or financial data related to the audit or review.

Auditor Independence. The PAA does not specifically require CPAs or CPA firms to be independent of entities they audit. Board rules, however, prohibit CPAs and CPA firms from having a financial interest in the entities they audit. Further, Board policy requires CPAs and CPA firms to avoid offering services where actual or perceived conflicts of interest exist.

On October 25, 2002, the Board established an Independence Committee (Committee) to review the Board's current independence rule and develop a draft independence rule. The Committee is scheduled to present its draft to the Board on July 26, 2003.

The Sarbanes-Oxley Act required the SEC to expand its rules regarding the independence of accountants from the companies they audit. These rules, adopted January 22, 2003, prohibit regulated accountants and firms from providing a wide variety of services that could result in conflicts of interest, including information technology, bookkeeping, financial systems design, personnel services, and legal services. The rules allow the provision of tax services.

Summary: Compliance Reporting and Penalties. CPAs and CPA firms must notify the Board within 30 days after:

- sanction, suspension, revocation, or modification of the professional license or practice rights by the SEC, the Internal Revenue Service, or another state Board of Accountancy;
- sanction or order against the CPA or CPA firm by any federal or state agency related to the CPA's or firm's practice of public accounting or violation of ethical or technical standards established by Board rule; and
- notice that the CPA or CPA firm has been charged with a violation of law that could result in the suspension or revocation of a license by a federal or other state agency, as identified by Board rule.

The Board must adopt rules to implement these reporting requirements and may also adopt rules specifying reporting requirements related to sanctions entered by a nongovernmental professionally related standard-setting entity.

The time period for licensed firms to notify the Board after falling out of compliance due to changes in ownership or personnel is increased from 30 to 90 days.

The Board's penalty authority for violations of the PAA is increased from a maximum of $10,000 to a maximum of $30,000. The monetary penalty for a violation of the PAA that is punishable as a crime is increased from a maximum of $10,000 to a maximum of $30,000.

Retention of Documents. Licensed CPA firms are required to retain certain documents and records for seven years after the end of the fiscal period in which the firm conducted an audit or review of a client's financial statements. The Board is granted rule-making power to implement the document retention requirements.

Auditor Independence. The Board is required to report to the Legislature on auditor independence by December 1, 2003.

Votes on Final Passage:

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

Effective: July 27, 2003

SHB 1213
C 126 L 03

Eliminating boards and commissions.

By House Committee on State Government (originally sponsored by Representatives Haigh, Armstrong, Morris, Hatfield, Linville, Ruderman and Rockefeller; by request of Governor Locke).

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

Background: The Governor and the Office of Financial Management are required to review state boards and commissions and, in every odd-numbered year, submit to the Legislature a recommended list of boards and commissions to be terminated or consolidated. During the 1995-1997 biennium, Washington had 381 boards and commissions, down from a high of 569 during the 1991-1993 biennium. During the 1999 legislative session, 33 boards, commissions, and committees were eliminated, and during the 2001 legislative session, seven boards, commissions, and committees were eliminated.

Summary: The following boards, commissions, and committees are abolished, and related responsibilities of these entities are terminated:

- *Health Care Policy Technical Advisory Committee (Health Care Authority):* Advises the Health Care Authority on effective approaches to cost control, quality assurance, and access to health care.
- *Governor's Small Business Improvement Council (Office of the Governor):* Identifies regulatory, administrative, and legislative proposals that will improve the entrepreneurial environment for small businesses.
- *Rebuilding Families Advisory Committee (Department of Corrections):* Provides community involvement in the planning, development, and implementation of programs at the Washington Corrections Center for Women.
- *Independent Living Advisory Committee (Department of Services for the Blind):* Provides guidance and direction to the Independent Living Program within the Department of Services for the Blind.
- *Ocean Spot Shrimp Emerging Fishery Advisory Board (Department of Fish and Wildlife):* Helps construct options for limiting fishery participation/efforts and provides recommendations.
- *Water Trail Advisory Committee (Parks and Recreation Commission):* Assists and advises the Parks and Recreation Commission in the development of water trail facilities and programs.
- *Community Outdoor Athletic Fields Advisory Council (Interagency Committee for Outdoor Recreation):* Provides information and makes recommendations to the Interagency Committee for Outdoor Recreation on the award of funds from the Youth Athletic Facility grant account.
- *Arthritis Advisory Group (Department of Health):* Required as part of a two-year arthritis planning grant funded by the Center for Disease Control. Develops and helps implement a Washington arthritis action plan.

- *Committee on Taxation, and the Advisory Group to the Committee on Taxation (Legislature):* Evaluated the current tax system.

Votes on Final Passage:

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

Effective: July 1, 2003

ESHB 1218
C 102 L 03

Creating a building mapping information system.

By House Committee on State Government (originally sponsored by Representatives Lovick, Mielke, O'Brien, Ahern, Kagi, Wallace, Darneille, Miloscia, Pearson, Delvin, Romero, Moeller, Dickerson, Rockefeller, Haigh, Kirby, Pettigrew, Chase, Veloria, Quall, McDermott, Dunshee, McCoy and Hunt).

House Committee on State Government
Senate Committee on Judiciary

Background: Building mapping provides electronic pre-incident plans of a building. Each map is a blueprint describing every room located in the building, along with its dimensions. Building map information can include:

- floor plans;
- fire protection information;
- evacuation plans;
- utility information;
- known hazards; and
- other information important to emergency personnel responding to a disaster or emergency.

The maps are designed to give the emergency responder as much information about the physical structure of the building as possible. The maps are saved in a centralized database that can be made available to emergency response agencies equipped with portable computers.

Summary: The Washington Association of Sheriffs and Police Chiefs (WASPC) will create and operate a statewide first responder building mapping information system (mapping system). All state and local government owned buildings will be mapped by WASPC or another source, contingent on funding. Once the buildings are mapped, the mapping information data will be forwarded to WASPC. All participating owners of non-government buildings may voluntarily forward their mapping and emergency data to WASPC. Building mapping information will be made available to all state, local, federal, and tribal law enforcement agencies, along with the Military Department and fire departments. The WASPC will develop mapping software standards that must be met in order to participate in the mapping system.

Building Mapping Specification. In consultation with the state Emergency Management Office, the Information Board Services, the Washington State Fire Chief's Association, and the Washington State Patrol, WASPC will head a committee to establish statewide first responder building mapping software. The committee will develop the type of information included in the mapping system and set standards that must be utilized by all entities participating. The committee will determine the order in which buildings are mapped and develop guidelines on how the information will be transmitted to the first responders. Lastly, the committee will recommend training guidelines to the Criminal Justice Training Commission and the Office of the State Fire Marshall within the Washington State Patrol.

Funding. No state agency or local government is required to map a building unless the entire cost of mapping the building is provided by WASPC or from other sources. The WASPC will pursue federal funds and develop grants to create the mapping system.

Units of local government and their employees are immune from civil liability for damages arising out of the creation or use of building mapping information, unless they acted with gross negligence or bad faith. All tactical and intelligence information provided to the WASPC for the statewide first responder building mapping information system is exempt from public disclosure.

Votes on Final Passage:

House	97	0	
Senate	49	0	(Senate amended)
House	97	0	(House concurred)

Effective: July 27, 2003

SHB 1219
C 288 L 03

Addressing violations connected with the offer, sale, or purchase of securities.

By House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Schual-Berke, Benson, Anderson, Upthegrove, Rockefeller and Simpson; by request of Governor Locke).

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

Background: In Washington, the securities industry is regulated by the Department of Financial Institutions (DFI) through its Division of Securities. This division, in turn, has an Enforcement Section that investigates consumer complaints and responds to referrals from the Attorney General's Office (AGO), law enforcement agencies, and other securities regulators. In addition to

providing technical assistance to law enforcement agencies, the Enforcement Section has both a legal and investigative staff who initiate administrative, civil, and criminal proceedings against violators of the State Securities Act (Act).

Willful violations of the Act, including the making of false or misleading statements to the DFI, are punishable by up to 10 years in prison or a fine of up to $5,000, or both. A five year statute of limitations applies with respect to criminal prosecutions under the Act.

Following a formal administrative action, a person who is found by the DFI to have knowingly or recklessly violated any provision of the Act may be fined up to $5,000 for each violation.

Where the DFI finds that it is necessary to act in order to protect the public interest, under certain circumstances it may sanction, discipline, or restrict the activities of any of the securities professionals subject to its authority.

Summary: Securities Prosecution Fund: A Securities Prosecution Fund (Fund) is created, the purpose of which is to provide the AGO and local prosecutors with the resources necessary to more effectively prosecute specified criminal violations of the Act. The Fund is derived from fines levied against violators as well as money received from restitution and disgorgement orders. No appropriation is necessary insofar as the Fund is sustained by funds obtained by the DFI through enforcement actions against violators.

The Director of the DFI (Director) must authorize any expenditure from the Fund, which must be used solely for the costs incurred in investigating and prosecuting violations of the securities code, as well as administrative costs. The AGO and prosecutors must submit an application to the DFI in order to obtain access to the Fund. The application must state the purpose of the funding request and specifically identify the criminal violations that are being prosecuted. At the conclusion of the prosecution, the AGO or prosecutor must provide the DFI with an accounting and a summary of the case.

The Fund is subject to a limit of $350,000. If the Fund reaches this limit, excess monies are deposited in DFI's general fund until such time as the Fund again falls below the $350,000 level.

Criminal Offenses: Criminal violations of the Act are a class B felony, punishable by imprisonment of up to 10 years and a $20,000 fine.

When done with the intent to deceive or obstruct an official proceeding, the deliberate alteration, destruction, or concealment of evidence is a criminal offense punishable by up to 10 years in prison and a fine of up to $500,000.

The prosecution of a criminal violation of the Act is subject to a statute of limitations of either five years after the violation or three years following the discovery of the violation, whichever is later.

Administrative Actions by the DFI: The maximum fine that may be imposed by the DFI via an administrative order is increased from $5,000 to $10,000 for each act or omission that constitutes the basis for the order.

The Director is authorized to charge licensees for the costs and fees incurred in the pursuit of an administrative action that results in an order being issued against the licensee. The Director may also issue orders requiring an accounting, restitution, and/or disgorgement as part of such administrative action.

Cease and Desist Orders: The Director is authorized to charge licensees for the costs and fees incurred in an action that results in an injunction or cease and desist order being issued against the licensee. The Director may also issue orders requiring an accounting, restitution, and/or disgorgement as part of such action.

Imposition of Fines: In general, the maximum fine that may be imposed by the DFI in an administrative action is increased from $5,000 to $10,000 per violation of the Act. However, the maximum fine is increased to $25,000 per violation with respect to knowing or reckless violations of administrative orders issued by the Director.

Fines collected pursuant to these provisions must be deposited in the Fund.

Votes on Final Passage:

House	94	0	
Senate	46	0	(Senate amended)
House	98	0	(House concurred)

Effective: July 27, 2003

SHB 1222
C 110 L 03

Requiring voting devices to be accessible to individuals with disabilities.

By House Committee on State Government (originally sponsored by Representatives Dickerson, Ruderman, Lovick, Romero, Schual-Berke, Hunt, Nixon, Wood, Conway, Simpson, Chase and Haigh).

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

Background: Sensory or physically handicapped voters may be assisted at the poll site, or at home for an absentee ballot. At a poll site, if a voter declares in the presence of an election official that he or she is unable to vote independently, the voter may designate a person of his or her choice to assist him or her in the voting process, or two election officials from opposite political parties may assist the handicapped person in the voting process.

Under Title II of the federal "Help America Vote Act," the U.S. Secretary of Health and Human Services

(SHHS) is authorized to administer grants to state and local governments to make polling places accessible to the disabled, including the blind and visually impaired. Grants may also be used to provide information about the accessibility of polling places. To receive funding, a state or locality must submit an application to the SHHS describing activities for which assistance is sought, and additional information as necessary. States must submit a report on the activities conducted with the funds to the SHHS not later than six months after the end of each fiscal year.

Summary: The Secretary of State must establish standards for the certification of voting systems and technology that are accessible to blind and visually impaired voters. All newly acquired voting technology and systems utilized by the state or any county must allow blind or visually impaired individuals with access equal to the access available to voters who are not blind or visually impaired. Each polling location must have at least one certified voting machine accessible to those voters who are blind or visually impaired.

Implementation is contingent on available funds. Voting technology and systems purchased prior to the effective date must meet the requirements once the equipment and systems are upgraded or replaced.

Votes on Final Passage:

House	94	0
Senate	46	0

Effective: July 27, 2003

HB 1226

C 223 L 03

Authorizing service of summons for persons not found in this state.

By Representatives Moeller, Campbell, Lantz and Carrell.

House Committee on Judiciary
Senate Committee on Judiciary

Background: In order to properly institute a lawsuit, a plaintiff must notify the defendant of the commencement of the suit by serving a summons on the defendant. This is called service of process. Generally, a defendant must be personally served with the summons. Individuals may be personally served either by delivering a copy of the summons to the defendant personally or by leaving a copy at the defendant's home with a person of suitable age and discretion.

Substitute service of process is allowed under certain circumstances if a plaintiff is unable to personally serve the defendant. In motor vehicle actions, the Secretary of State may receive substitute service of process for a nonresident motorist involved in an accident or for a resident who within three years of the accident "departs from this state." For substitute service upon the Secretary of State to be valid, the plaintiff must also send notice of such service and a copy of the summons to the defendant's last known address by registered mail with return receipt requested.

The Washington Supreme Court, in a case construing the absent motorist statute, held that a person who cannot be found in the state is not the equivalent of the statute's requirement that the resident "departs from this state." Instead, the Court found that a plaintiff may only serve substitute process upon the Secretary of State if: (1) the defendant has in fact departed the state; or (2) the plaintiff has a good faith belief that the defendant has departed and has attempted, with due diligence, to find and serve the defendant.

The due diligence standard requires a plaintiff to make honest and reasonable efforts to locate the defendant. Not all conceivable means must be employed, but at the least any accident report made must be examined and its information investigated with reasonable effort. In addition, if the plaintiff has information pertaining to the defendant's whereabouts other than that contained in the accident report, he or she must make reasonable efforts to investigate based on that information.

Summary: A state resident involved in a motor vehicle accident while operating a motor vehicle on a state public highway may be served by substitute service of process on the Secretary of State if the resident cannot be found in Washington, after a due and diligent search, at any time within the three years following the event.

Votes on Final Passage:

House	95	0
Senate	49	0

Effective: July 27, 2003

SHB 1232

C 99 L 03

Requiring jail booking fees to be based on actual costs.

By House Committee on Criminal Justice & Corrections (originally sponsored by Representatives Kirby, Carrell and Flannigan).

House Committee on Criminal Justice & Corrections
Senate Committee on Government Operations & Elections

Background: Municipalities and counties are authorized to require any person who is booked in a county or municipal jail to pay a $10 booking fee to the sheriff's department or police chief's department where the jail is located. The person may pay the booking fee from any money currently in his or her possession. If the person does not have any money in his or her current possession, then the sheriff must notify the court for assessment of the fee. If the defendant is acquitted, not charged, or if

the charges are dismissed, then the sheriff or police chief must return the booking fee to the defendant at the last known address in the booking records.

Summary: Municipalities and counties are authorized to require any person who is booked in a county or municipal jail to pay the actual cost incurred for his or her booking or $100, whichever is less, as opposed to a flat $10 booking fee.

Votes on Final Passage:

House	97	0
Senate	46	2

Effective: July 27, 2003

SHB 1233

PARTIAL VETO

C 284 L 03

Improving services for kinship caregivers.

By House Committee on Children & Family Services (originally sponsored by Representatives Pettigrew, Boldt, Moeller, Kagi, Lovick, Orcutt, Dickerson, Chase, Darneille, Eickmeyer, O'Brien, Roach, Armstrong, Flannigan, Jarrett, Clibborn, Lantz, Kenney, Benson, Shabro, Nixon, Morrell, Mielke and Haigh).

House Committee on Children & Family Services
House Committee on Appropriations
Senate Committee on Children & Family Services & Corrections

Background: In 2001 the Legislature directed the Washington State Institute for Public Policy (WSIPP) to study the prevalence and needs of families who are raising related children. In June 2002, the WSIPP issued a report describing the prevalence and characteristics of kinship care, needs of kinship care providers in Washington, policies and services available in Washington and other states, and policy options that may increase appropriate kinship care placements.

In anticipation of the release of the WSIPP report, the Department of Social and Health Services (DSHS) was required to convene a kinship caregivers workgroup to review the report and develop a briefing for the Legislature identifying the policy issues related to kinship caregivers, the federal and state statutes associated with these issues, and options to address the issues.

The Kinship Care Workgroup, which the DSHS formed in response, reported to the Legislature in November 2002 with recommendations identifying a number of steps that could be taken by the Legislature or by the DSHS that encompassed the following areas related to kinship care: financial needs; service delivery and practice; legal issues; social services; and issues for federal action.

The Kinship Care Workgroup put forth a total of 16 high priority recommendations, including the following:

- The Children's Administration of the DSHS should strengthen elements of the relative search process that would increase the number of children placed with willing and able relatives when out-of-home placement is required.
- The DSHS should train and establish "Kinship Care Navigators" in each DSHS region.
- The Legislature should mandate and fund an ongoing committee of relative caregivers and others to oversee the implementation of the recommendations in the report and continue future work on kinship care in the state.

Summary: The DSHS is required to plan, design, and implement strategies to prioritize the placement of children with willing and able kin when out-of-home placement is required. These strategies must include at least the following:

- development of standardized, statewide procedures to be used when searching for kin of children prior to out-of-home placement; and
- development of procedures for conducting active outreach efforts to identify and locate kin during all searches.

Nothing in the section relating to the kin search process may be construed to create an entitlement to services or to create judicial authority to order the provision of services to any person or family if the services are unavailable or unsuitable, or the child or family is not eligible for the services.

The DSHS is required to collaborate with one or more nonprofit community-based agencies to develop a grant proposal for submission to potential funding sources, including governmental entities and private foundations, to establish a minimum of two pilot projects to assist kinship caregivers with understanding and navigating the system of services for children in out-of-home care. The proposal must seek to establish at least one project in eastern Washington and one project in western Washington, each project to be managed by a participating community-based agency. Implementation of the kinship care navigator pilot projects is contingent upon receipt of non-state or private funding for that purpose.

The kinship care navigators funded through the proposal must be responsible for at least the following:

- understanding the various state agency systems serving kinship caregivers;
- working in partnership with local community service providers;
- tracking trends, concerns, and other factors related to kinship caregivers; and
- assisting in establishing stable, respectful relationships between kinship caregivers and staff of the DSHS.

The DSHS is required to report to the Legislature and the Governor on the implementation of the kinship care navigator pilot projects with recommendations on statewide implementation of the pilot projects one year following implementation of the pilot projects. The report must: include data that demonstrates whether or not the pilot project reduced actual barriers to access to services; identify statutory and administrative barriers for kin who give care; and recommend ways to reduce or eliminate the barriers without adverse consequences to children placed with kin.

The sections relating to the pilot projects expire January 1, 2007.

The term "kin," which applies to the kin search process and the kinship care navigator pilot projects, is defined as persons 18 years of age or older to whom the child is related by blood, adoption, or marriage, including marriages that have been dissolved, and who are: denoted by the prefix "grand" or "great"; full, half, or step siblings; uncles or aunts; nephews or nieces; or first cousins.

Within existing resources, the DSHS is required to establish an oversight committee to monitor, guide, and report on kinship care recommendations and implementation activities. The committee must:

- draft a kinship care definition that is restricted to persons related by blood or marriage, including marriages that have been dissolved. For a minor defined as an "Indian child" under the federal Indian Child Welfare Act, the definition of "extended family member" under that law applies. If the oversight committee concludes that one or more program or service would be more efficiently and effectively delivered under a different definition of kin, the oversight committee must: provide that definition; identify the program or service to which that definition would apply; and provide evidence of how the program or service would be more efficiently and effectively delivered under that definition. The DSHS may not adopt rules or policies changing the definition of kin without authorizing legislation;
- monitor the implementation of recommendations contained in the Kinship Care Workgroup 2002 Report;
- partner with nonprofit organizations and private sector businesses to guide a public education awareness campaign; and
- assist with developing future recommendations on kinship care issues.

The oversight committee must consist of a minimum of 30 percent kinship caregivers, who represent a diversity of kinship families. Statewide representation with geographic, ethnic, and gender diversity is required. Other members must include representatives of the DSHS, representatives of relevant state agencies, representatives of the private nonprofit and business sectors, child advocates, representatives of Washington Indian tribes, and representatives of the legal or judicial field. Birth parents, foster parents, and others who have an interest in these issues may also be included.

The oversight committee kinship care is required to report to the Legislature and the Governor on the status of kinship care issues by December 1, 2004. The oversight committee expires January 1, 2005.

Votes on Final Passage:

House	97	0	
Senate	47	0	(Senate amended)
House			(House refused to concur)
Senate	48	0	(Senate amended)
House	97	0	(House concurred)

Effective: July 27, 2003

Partial Veto Summary: The Governor vetoed the section requiring the DSHS to report to the Legislature and the Governor on the implementation of the kinship care navigator pilot projects with recommendations on statewide implementation of the pilot projects one year following implementation of the projects.

VETO MESSAGE ON HB 1233-S

May 14, 2003

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 No. 1233 entitled:

"AN ACT Relating to improving services for kinship caregivers;"

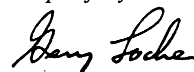
This bill requires the Department of Social and Health Services (DSHS) to do more to promote kinship placements when children are placed in out-of-home care by the Children's Administration. It requires DSHS to develop more rigorous standardized kin search procedures, to seek grant funding to establish two pilot kinship care navigator projects to assist caregivers, and to establish a kinship care oversight committee.

Section 3 of the bill would have required DSHS to report to the Legislature and to the Governor regarding findings from the implementation of the two proposed pilot kinship care navigator projects. This is in addition to the report the bill requires from the kinship care oversight committee. I am concerned that this bill would create two new reporting requirements for DSHS at a time when we are seeking ways to reduce paperwork requirements in order to maximize limited staff resources. I have vetoed section 3, and I am directing DSHS to be prepared to instead brief the Legislature on the same topic.

For these reasons, I have vetoed section 3 of Substitute House Bill No. 1233.

With the exception of section 3, Substitute House Bill No. 1233 is approved.

Respectfully submitted,



Gary Locke
Governor

2SHB 1240

C 261 L 03

Providing tax incentives for biodiesel and alcohol fuel production.

By House Committee on Finance (originally sponsored by Representatives Sullivan, Crouse, Wood, Morris, Grant, Schoesler, Quall, Ruderman and Schindler).

House Committee on Technology, Telecommunications & Energy
House Committee on Finance
Senate Committee on Ways & Means

Background: Biodiesel is a non-petroleum diesel fuel produced from renewable sources such as vegetable oils, animal fats, and recycled cooking oils. It can be blended at any percentage with petroleum diesel or used as a pure product (neat diesel). Other states have adopted policies and incentives to encourage the use of biodiesel.

Blended biodiesel is in use in Washington to fuel some passenger cars and municipal vehicles. The Department of Transportation is conducting a pilot program using a biodiesel blend to fuel one of the state's care ferries.

Alcohol fuels are made from crops such as corn and sugar cane, and waste products such as waste paper, grasses, or tree trimmings. Methanol and ethanol are two types of alcohol fuels used in vehicles. Methanol is also produced from fossil fuels such as natural gas.

Business and Occupation Tax. The business and occupation (B&O) tax is Washington's major business tax. The tax is imposed on the gross receipts of business activities conducted within the state. Revenues are deposited in the State General Fund.

Different tax rates apply to six separate categories of business activity. The processing of certain agricultural products is taxed at the rate of 0.138 percent. Manufacturing, wholesaling, and other activities are taxed at the rate of 0.484 percent.

Property Taxes. 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 the land. Personal property consists of all other property.

Leasehold Excise Tax. Property owned by federal, state, or local governments is exempt from the property tax. However, private lessees of government property are subject to the leasehold excise tax. The purpose of the leasehold excise tax is to impose a tax burden on persons using publicly-owned, tax-exempt property similar to the property tax that they would pay if they owned the property. The tax is collected by public entities that lease property to private parties.

Cities and counties may impose a local tax which is credited against the state tax. The state tax is deposited into the State General Fund, and county taxes are distributed to taxing districts within the county in the same manner as property taxes.

Holders of a leasehold interest in property prior to January 1, 1993, used primarily for the manufacture of alcohol fuels are exempt from the leasehold excise tax for a period of six years.

Retail Sales and Use Taxes. The state retail sales tax rate is 6.5 percent and is imposed on the retail sale of most tangible personal property and some services. In addition, local sales taxes apply. Cities and counties may levy a local tax at a rate up to a maximum of 3.1 percent; currently, local rates levied range from 0.5 percent to 2.4 percent. The combined tax rate is between a minimum of 7 percent and a maximum of 8.9 percent depending on the location of the purchase. Sales tax is paid by the purchaser and collected by the seller. Sales tax revenue is deposited in the State General Fund.

The use tax is imposed on the use of an item in this state when the acquisition of the item has not been subject to sales tax. The use tax applies to items purchased from sellers who do not collect sales tax, items acquired from out-of-state, and items produced by the person using the item. Use tax is equal to the sales tax rate multiplied by the value of the property used. Use tax is paid directly to the Department of Revenue. Use tax revenue is deposited in the State General Fund.

Distressed Area Sales and Use Tax Deferral Program. The Distressed Area Sales and Use Tax Deferral Program allows deferral of sales and use taxes for buildings, machinery, and equipment of manufacturing businesses as well as research and development businesses locating in specific geographic areas.

The geographic areas include rural counties with a population density of fewer than 100 people per square mile and areas designated as community empowerment zones or counties that contain a community empowerment zone. (Counties that do not qualify include Clark, Island, Thurston, and Snohomish.) Businesses that seek the deferral and are located in a community empowerment zone must also satisfy an employment requirement.

If the business requesting the deferral meets certain requirements for a period of eight years, the sales and use taxes are waived. This tax deferral program expires July 1, 2004.

Summary: Tax deferrals and exemptions are established for the manufacture of alcohol fuel from a source other than petroleum or natural gas, biodiesel fuels, and biodiesel feedstock.

Sales and Use Tax Exemptions. Investment projects for the manufacture of biodiesel fuel, alcohol fuels, and biodiesel feedstock are eligible for the deferral of sales and use taxes under the same requirements and conditions as the existing Distressed Area Sales and Use Tax Deferral Program. Those requirements and conditions include a determination of eligible geographic areas,

eligible investment projects, business reporting, and application requirements. An additional qualifying option includes counties under 225,000 in population and over 225 square miles in area. Participants in this deferral program will not be accepted after June 30, 2009.

Property and Leasehold Excise Tax Exemptions. Buildings, machinery, equipment, and other personal property used in the manufacture of biodiesel fuels, alcohol fuels, or biodiesel feedstock, and the land on which this property is located, are exempt from property taxes for six years from the date the facility becomes operational. The amount of the exemption is based on the annual percentage of the total value of all products manufactured that is the value of the alcohol fuels, biodiesel fuels and biodiesel feedstock manufactured.

Biodiesel fuel and biodiesel feedstock are added to the current alcohol fuel exemption of the leasehold excise tax. Participation in the exemption is reinstated for alcohol. No new participants based on either fuel will be accepted after January 1, 2010.

Business and Occupation Tax. For purposes of payment of the B&O tax, those engaged in the manufacture of alcohol fuel, biodiesel fuel, and biodiesel feedstock pay at the rate of 0.138 percent on their gross receipts. This special B&O tax rate of 0.138 percent is effective until July 1, 2009, at which time it will change to the standard B&O tax rate of 0.484.

Votes on Final Passage:

House	93	1	
Senate	41	4	(Senate amended)
House	97	1	(House concurred)

Effective: July 1, 2003
July 1, 2004 (Sections 1-8)

2SHB 1241

C 63 L 03

Providing tax incentives for the distribution and retail sale of biodiesel and alcohol fuels.

By House Committee on Finance (originally sponsored by Representatives Sullivan, Crouse, Wood, Morris, Grant, Schoesler, Quall, Ruderman and Schindler).

House Committee on Technology, Telecommunications & Energy
House Committee on Finance
Senate Committee on Ways & Means

Background: Biodiesel is a non-petroleum diesel fuel produced from renewable sources such as vegetable oils, animal fats, and recycled cooking oils. It can be blended at any percentage with petroleum diesel or used as a pure product (neat diesel). Other states have adopted policies and incentives to encourage the use of biodiesel. The business and occupation tax deduction for alcohol fuel is limited to alcohol fuel with at least 85 percent alcohol.

Blended biodiesel is in use in Washington to fuel some passenger cars and municipal vehicles. The Department of Transportation is conducting a pilot program using a biodiesel blend to fuel one of the state's car ferries.

Business and Occupation Tax. The business and occupation (B&O) tax is Washington's major business tax. The B&O tax is imposed on the gross receipts of business activities conducted within the state. Revenues are deposited in the State General Fund.

The B&O tax does not permit deductions for the costs of doing business, such as payments for raw materials and wages of employees. However, there are many exemptions for specific types of business activities as well as certain deductions and credits permitted under the B&O tax statutes. For example, a deduction from taxable income is allowed for income derived from the sale of fuel consumed outside of United States territorial waters in vessels engaging in foreign commerce.

Retail Sales and Use Taxes. The state retail sales tax rate is 6.5 percent and is imposed on the retail sale of most items of tangible personal property and some services. In addition, local sales taxes apply. Cities and counties may levy a local tax at a rate up to a maximum of 3.1 percent; currently, local rates levied range from 0.5 percent to 2.4 percent. The combined tax rate is between a minimum of 7 percent and a maximum of 8.9 percent depending on the location of the purchase. Sales tax is paid by the purchaser and collected by the seller. Sales tax revenue is deposited in the State General Fund.

The use tax is imposed on the use of an item in this state when the acquisition of the item has not been subject to sales tax. The use tax applies to items purchased from sellers who do not collect sales tax, items acquired from out-of-state, and items produced by the person using the item. Use tax is equal to the sales tax rate multiplied by the value of the property used. Use tax is paid directly to the Department of Revenue. Use tax revenue is deposited in the State General Fund.

Summary: Tax incentives in the form of tax deductions and exemptions are established for the retail sale and distribution of biodiesel fuels and alcohol fuels made from a product other than petroleum or natural gas.

Business and Occupation Tax. Beginning July 1, 2003, and until June 30, 2009, a business may deduct from its business and occupation tax obligation the amounts it receives from the retail sale or distribution of biodiesel or alcohol fuels.

Sales and Use Taxes. Beginning July 1, 2003, and until June 30, 2009, a person who sells biodiesel or alcohol fuel blends at retail, or who distributes these fuel blends, may claim an exemption from state and local sales and use taxes paid on qualifying investments.

Qualifying investments include the purchase of machinery and equipment as well as labor and services used for biodiesel or alcohol refueling and vehicles and other personal property used for biodiesel or alcohol blended fuel distribution. Qualifying fuels are fuels with at least 20 percent biodiesel or 85 percent alcohol. If the personal property on which the exemption is claimed is used for purposes other than the retail sale or distribution of biodeisel or alcohol fuels within three years of initial operation, the exempted taxes become due. Local governments may also provide a local sales and use tax exemption for the retail sale and distribution of biodiesel and alcohol fuel blends.

Votes on Final Passage:

House	93	1
Senate	43	2

Effective: July 1, 2003

ESHB 1242

C 17 L 03

Encouraging the use of biodiesel by state agencies.

By House Committee on Technology, Telecommunications & Energy (originally sponsored by Representatives Sullivan, Crouse, Wood, Morris, Grant, Schoesler, Quall, Ruderman and Mielke).

House Committee on Technology, Telecommunications & Energy

Senate Committee on Natural Resources, Energy & Water

Background: Biodiesel is a non-petroleum diesel fuel produced from renewable sources such as vegetable oils, animal fats, and recycled cooking oils. It can be blended at any percentage with petroleum diesel or used as a pure product (neat diesel). Other states have adopted policies and incentives to encourage the use of biodiesel.

Blended biodiesel is in use in Washington to fuel some passenger cars and municipal vehicles.

Ultra-low sulfur diesel fuel is a specially refined diesel fuel that has lower sulfur content than regular on-highway diesel. The sulfur content ranges from 15 to 30 parts per million. Regular diesel has a maximum of 500 parts per million of sulfur.

The U.S. Environmental Protection Agency is requiring that all on-highway diesel fuel must meet the ultra-low sulfur diesel standards beginning in 2006.

Summary: All state agencies are encouraged to use a blend of 20 percent biodiesel (B20) with petroleum diesel for diesel fuel vehicles.

By June 1, 2006, in complying with the federal standard for diesel fuels for use in on-highway vehicles, state agencies must use biodiesel as an additive to ultra-low sulfur diesel in an amount not less than 2 percent biodiesel if the use of a lubricity additive is warranted and if the performance and cost of a biodiesel additive is comparable to other lubricity additives.

Votes on Final Passage:

House	86	7
Senate	48	0

Effective: July 27, 2003

ESHB 1243

C 64 L 03

Establishing a biodiesel pilot project for school transportation.

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

House Committee on Technology, Telecommunications & Energy

Senate Committee on Natural Resources, Energy & Water

Background: Biodiesel is a non-petroleum diesel fuel produced from renewable sources such as vegetable oils, animal fats, and recycled cooking oils. It can be blended at any percentage with petroleum diesel or used as a pure product (neat diesel). Other states have adopted policies and incentives to encourage the use of biodiesel.

Biodiesel is registered as a fuel and fuel additive with the U.S. Environmental Protection Agency and has completed health effects testing requirements of the Clean Air Act. The American Society of Testing and Materials (ASTM) has issued a standard for all biodiesel bought and sold in the United States (Specification D 6751). Blended biodiesel is in use in Washington to fuel some passenger cars and municipal vehicles.

Ultra-low sulfur diesel fuel is a specially refined diesel fuel that has lower sulfur content than regular on-highway diesel. The sulfur content ranges from 15 to 30 parts per million. Regular diesel has a maximum of 500 parts per million of sulfur.

The U.S. Environmental Protection Agency is requiring that all on-highway diesel fuel must meet the ultra-low sulfur diesel standards beginning in 2006.

Summary: For the school year beginning September 2003, the Superintendent of Public Instruction must conduct a pilot project using biodiesel along with ultra-low sulfur diesel (ULSD) in diesel engine school buses.

The pilot project must include two school districts. Priority is given to districts located in geographic areas identified by the U.S. Environmental Protection Agency as areas of concern for pollution emissions.

Conditions of the pilot project for the selected districts include the following:

- ULSD must be used in 25 percent of the school bus fleet for the district or in at least 10 buses for at least one of the pilot districts during the 2003 school year;

- Emissions must be tested prior to the use of ULSD and again six months after commencing use;
- ULSD must be used with 20 percent biodiesel during the 2004 school year in 75 percent, or at least seven, of the school buses that used ULSD in the 2003 school year and one participating district may use a blend of 20 percent biodiesel for the entire pilot period;
- Emissions must be tested after six months of using the biodiesel additive; and
- Maintenance issues must be recorded.

The Superintendent of Public Instruction must report findings from the pilot project to the Legislature by September 1, 2005.

Funding for the pilot project may not use State General Fund moneys.

Votes on Final Passage:

House 81 12
Senate 46 0

Effective: July 27, 2003

HB 1246
C 176 L 03

Authorizing the department of natural resources to accept gifts of aquatic land.

By Representatives Linville, Schoesler, Rockefeller, Sump, Orcutt, Quall, Upthegrove and Mielke; by request of Commissioner of Public Lands.

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

Background: The Legislature has delegated to the Department of Natural Resources (DNR) the responsibility for managing the state's aquatic lands for the benefit of the public. The management of aquatic lands must support a balance of goals, including the encouragement of public access, the fostering of water-dependent uses, the utilization of renewable resources, and the generation of revenue. Revenues generated from the state's aquatic lands are generally directed to be used for public benefits, such as shoreline access, environmental protection, and recreational opportunities. The DNR may lease aquatic lands, and exchange state-owned aquatic lands for privately owned lands.

The DNR is expressly authorized to accept several types of lands as gifts or bequests. These include gifts of land used for mining and gifts of land that promote reforestation. The DNR also has a general authority to accept land on behalf of the state. Land accepted under this provision is subject to approval by the Attorney General, and any revenue generated from these lands is added to the DNR's trust holdings.

Summary: The DNR is authorized to accept gifts of aquatic lands. All gifts received will become part of the state's aquatic land base.

The DNR is required to develop procedures and criteria that state the manner in which aquatic land gifts may occur. No individual aquatic parcel may be accepted by the DNR until four events occur:

1. An appraisal of the land's value has been prepared.
2. An environmental site assessment has been prepared.
3. The Attorney General has examined and approved the property's title report.
4. The appraisal, site assessment, and title report are submitted to the Board of Natural Resources.

The authority to accept aquatic lands retroactively applies to lands accepted prior to the effective date of this act.

Votes on Final Passage:

House 94 0
Senate 47 0

Effective: July 27, 2003

SHB 1250
C 310 L 03

Determining annual rental rates for the lease of state-owned aquatic lands for qualifying marinas.

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

House Committee on Agriculture & Natural Resources
House Committee on Appropriations
Senate Committee on Natural Resources, Energy & Water
Senate Committee on Ways & Means

Background: The Legislature has delegated the management of state-owned aquatic lands to the Department of Natural Resources (DNR), with directions to encourage public use and access, foster water-dependent uses, ensure environmental protection, and utilize renewable resources. The DNR is further instructed to charge a rent to the users of state-owned aquatic lands, with different standards applying to different use types. Non-water dependent uses are charged the fair market value for the use of the land. Water dependent uses are charged rent according to a statutory formula.

Water dependent uses, defined as uses that cannot logically exist except on water, are assessed a rent that is associated with upland values. Generally, water dependent uses must pay a rent that is 30 percent of the assessed value of the adjacent upland parcel, plus a real capitalization rate.

The Legislature suspended rent increases for marinas located on state-owned aquatic lands between June 11, 1998, and July 1, 1999. The rent freeze was implemented while the DNR conducted a legislatively-mandated study into other possible rent formulas. The conclusions of the Final Rent Study Report to the Legislature, delivered by the DNR in February of 1999, indicated that at that time a consensus for change was not reached.

Summary: Rent Calculations. Beginning on July 1, 2004, the lease rates for marinas will be a percentage of the annual gross revenues of that marina. The percentage must be initially calculated by the DNR to ensure that state revenues are maintained at 2003 levels, including administrative costs. Marinas must return income reporting forms by July 1, 2003, and again annually on a date set by the DNR. The income reporting forms must be provided by the DNR, and certified by a licensed accountant, and may require the disclosure of information relating to the sources of all marina-related income, excluding restaurants and bars. If an income reporting form is not returned, the DNR may audit the marina at the owner's expense.

Initial marina rent formulas must be applied to each marina on its lease anniversary date and be based on that marina's 2003 income information. After 2004, each marina's rent will be recalculated to represent the income information from the previous year. The minimum amount a marina may be charged in rent is $500 plus administrative costs.

If the DNR does not receive income reporting forms from at least 75 percent of the marinas representing 90 percent of annual marina revenue, the lease calculation method will revert to the method applied to non-marina aquatic land leases.

Legislative Intent/Reporting. The stated intent of the Legislature is to pass additional legislation in 2004 that will codify the actual percentage of gross revenue that will serve as a marina's rent, and that will codify which operations are to be included in the definition of "gross revenue."

Prior to enacting the intended legislation, the DNR is required to develop a recommended formula for rent calculations. The recommended formula must include a percentage or a range of percentages, a system for implementing the percentages, and a designation of the revenues that will be used in calculating the rent. The DNR must convene a work session with the stakeholders to discuss the criteria for setting rents.

Votes on Final Passage:

House	94	2	
Senate	48	0	(Senate amended)
House	97	0	(House concurred)

Effective: May 14, 2003

EHB 1252

PARTIAL VETO

C 334 L 03

Making technical, nonsubstantive, corrections to and recodifying various department of natural resources' public land statutes.

By Representatives Linville, Schoesler, Rockefeller, Sump and Upthegrove; by request of Commissioner of Public Lands.

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

Background: The Legislature created the Department of Natural Resources (DNR) in 1957 and assigned to it the responsibility to manage the state's upland properties for the benefit of the designated trust beneficiaries. The DNR carries out these proprietary functions separate from their regulatory and aquatic land management responsibilities.

The proprietary duties of the DNR cover most aspects of land ownership. The Legislature has enacted statutes guiding the DNR's land management that include policies on sales procedures, sustainable harvest requirements, land platting, leasing procedures, oil and gas development, prospecting and mining, coal mining, land sales and exchanges, land acquisition, easements, and geothermal resources.

Much of the statutory law governing DNR's land management duties was originally enacted in the Public Lands Act of 1927. Statutes governing DNR's land management and other duties are primarily codified in three titles of the Revised Code of Washington: Title 43 (State Government-Executive), Title 76 (Forests and Forest Products), and Title 79 (Public Lands).

The Commissioner of Public Lands has the duty to report to the Legislature any recommendations for statutory change relating to the handling of public lands.

Summary: Statutes governing the DNR management of state uplands are reorganized without substantive change. Nonsubstantive revisions eliminate outdated terms and regroups like subjects.

Specifically, the legislation:

- consolidates, in Title 79, all provisions concerning management of uplands belonging to or held in trust by the state and administered by the DNR.
- creates individual chapters limited to one major subject.
- groups provisions concerning certain discrete subjects into subchapters within chapters.
- consolidates provisions relating to overall responsibilities of the Commissioner of Public Lands and the DNR in Title 43.

- consolidates provisions concerning trust funds and other funds.
- moves provisions concerning marine plastic debris to join other provisions concerning aquatic lands.
- rewrites provisions in gender-neutral terms and groups commonly used definitions.

Votes on Final Passage:

House	96	0
Senate	49	0

Effective: July 27, 2003

Partial Veto Summary: The Governor vetoed a section making technical changes, including updating agency and gender references, that conflict with another enacted bill.

VETO MESSAGE ON HB 1252

May 16, 2003

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 123 Engrossed House Bill No. 1252 entitled:

"AN ACT Relating to the recodification of Title 79 RCW and related public land statutes;"

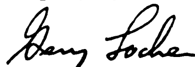
This bill reorganizes the statutes governing the Department of Natural Resources' management of state uplands.

Section 123 amends RCW 43.30.310 as did Senate Bill No. 5758, which I signed on April 22, 2003. While the amendments in both bills are strictly technical in nature, they create a double amendment that cannot be merged. Therefore, to avoid confusion, I have vetoed section 123.

For these reasons, I have vetoed section 123 of Engrossed House Bill No. 1252.

With the exception of section 123, Engrossed House Bill No. 1252 is approved.

Respectfully submitted,



Gary Locke
Governor

SHB 1269

C 212 L 03

Regulating structural pest inspectors.

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

House Committee on Agriculture & Natural Resources
Senate Committee on Agriculture

Background: The state's Pesticide Control Act (Act) requires pesticides to be registered by the state's Department of Agriculture (WSDA). The Act also requires pesticide dealers, dealer managers, and public and private pest control consultants to be licensed.

A special category of the pest control consultant's license is for structural pest inspectors. A structural pest inspector is a person who inspects buildings for wood destroying organisms, their damage, or conditions conducive to their infestation. As a condition for licensure, a pest control inspector must provide evidence of financial responsibility in the form of a surety bond or an errors and omissions insurance policy or certification. The minimum amounts required for the bonds and policies are specified under the Act.

Summary: Structural Pest Inspector's License. Structural pest inspection is no longer a licensing subcategory of a pest control consultant's license. A structural pest inspector's license is required for a person who conducts as a service a complete or a specific wood destroying organism inspection. A "complete" wood destroying organism inspection is an inspection conducted to determine evidence of infestation or damage by, or conducive conditions for, wood destroying organisms as part of the transfer, exchange, or refinancing of a structure. Any inspection conducted as the result of a telephone solicitation must be conducted as such a complete inspection. The "specific" version of the inspection is one for the purpose of identifying or verifying evidence of an infestation of wood destroying organisms prior to pest management activities. A wood destroying organism is one that consumes, excavates, develops in, or otherwise modifies the integrity of wood or wood products.

A person who currently holds a valid license to perform such services is exempted from this requirement until the expiration of the license. The license application fee is $45, as it was when the license was a subcategory of a consultant's license. Persons who had been exempted from licensure to perform such inspections because they hold other pesticide licenses and are operating within the authority of those other licenses are now exempt only from the license application fee requirement. The exemption no longer applies to all governmental employees acting within their official capacities or to pesticide dealer managers or their employees. The other licenses to which the fee exemption applies include a pest control consultant's license.

An applicant for a structural pest inspector's license must pass a written examination designed to demonstrate certain knowledge, including knowledge of the conditions that are conducive to the development of wood destroying organisms.

Company License. A business that conducts such structural pest inspections must itself be licensed; it is unlawful for a business to conduct such inspections without a license. The contents of the application form for the license are listed. Changes to the information provided on such a form must be reported to the WSDA within 30 days.

Required Evidence of Financial Responsibility. The evidence of financial responsibility required for a struc-

tural pest inspector must be provided to the WSDA by the inspector or by the business employing the inspector. Greater detail is provided regarding the required evidence of financial responsibility. It is to be provided by: an errors and omissions insurance policy; a surety bond; a surety bond and an errors and omissions policy; or an assigned account. The errors and omissions insurance policy or surety bond must be for not less than $25,000 separately; if provided together, the insurance policy must be for not less than $25,000 and the bond must be for not less than $12,500. The assigned account must be held by the WSDA in an amount not less than $25,000 (and the WSDA is not liable for payments beyond this specified amount). The Director of the WSDA may identify other authorized evidence by rule that provides coverage equivalent to the types specified by statute.

Means of making claims against the various forms of financial responsibility are specified. They apply to such claims made within two years of the inspection. This time limitation applies to claims against these forms of financial responsibility; it does not affect any statute of limitations for claims a person may have against the inspector.

Other. The Director of the WSDA may require licensees to earn recertification credits in their licensing categories. Provisions of the Pesticide Control Act are removed that indicate that a pest control consultant supervises or aids the application of a pesticide by a user.

Votes on Final Passage:

House	94	0
Senate	44	1

Effective: July 1, 2003

SHB 1271
C 18 L 03

Enhancing interoperability of emergency communications.

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

House Committee on Technology, Telecommunications & Energy
House Committee on Appropriations
Senate Committee on Technology & Communications

Background: The Federal Communications Commission (FCC) has required states to study their emergency communications systems. The Washington State Information Services Board (Board) established the State Interoperability Executive Committee (Committee) to conduct a preliminary review. This review found that a wide variety of agencies at all levels of government have responsibilities for providing public safety and emergency services. The Committee found that the ability of emergency personnel to communicate with each other and with emergency services officials is key to providing emergency services and that emergency communications systems are essential to the life, health, safety, and welfare of both the citizens of Washington and emergency personnel.

Agencies at all levels are responsible for operating their own communications systems. There are numerous different types of communications systems available and in use. These systems range from technology dating from the 1960s to cutting-edge digital voice and data systems. The systems in use represent an estimated statewide investment of $90 million.

Agencies often purchase dissimilar emergency communications equipment which may impede communication between neighboring agencies. A diversity of equipment and an increase in the number of agencies needing emergency communications systems has also created a need for a larger number of radio frequencies.

The FCC is the federal agency responsible for allocating radio frequencies. The FCC ensures that communications systems have discrete frequencies so as not to interfere with each other. In 2006 the FCC will be reorganizing and allocating new public safety radio frequencies to accommodate the increase in communications systems and new technology.

The Military Department is the state agency charged with planning and coordinating emergency responses and emergency communications. The Adjutant General is the Director of the Military Department.

Summary: The Committee is established as a committee of the Board. Committee members will be appointed by the Board from: the Military Department, the State Patrol, the Department of Transportation, the Department of Information Services, the Department of Natural Resources, state and local fire chiefs, police chiefs, sheriffs, and state and local emergency management directors. The chair and legislative members of the Board are non-voting members.

The Committee will develop policies, procedures, and recommendations to ensure the interoperability of emergency communications systems across the state to allow emergency services personnel and agencies to communicate freely across jurisdictional lines.

The Committee will serve as the point of contact with the FCC for issues relating to the allocation, use, and licensing of the radio spectrum for public safety and emergency communications systems.

By July 31, 2004, the Committee will conduct an inventory of all state and local government owned emergency services communication systems. Based upon the inventory and future needs, the Committee will develop a plan to ensure the interoperability of emergency communications systems. The Committee will consult with the Joint Legislative Audit and Review Committee on the inventory and planning process.

The inventory and plan will be presented to the Board and the Legislature according to a schedule. By December 31, 2003, the Committee will report on the inventory of all state government-owned public safety communications systems and by July 31, 2004, the Committee will report on the inventory of all public safety communications systems within the state. By March 31, 2004, the Committee with issue an interim report on a statewide public safety communications plan and deliver a final report by December 31, 2004.

Votes on Final Passage:

House	97	0
Senate	47	0

Effective: July 1, 2003

SHB 1275

C 274 L 03

Transferring the human immunodeficiency virus insurance program to the department of health.

By House Committee on Health Care (originally sponsored by Representatives Darneille, Pflug, Moeller, Cody, Romero, Wood and Upthegrove; by request of Department of Health).

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

Background: The Department of Social and Health Services (Department) has operated the Acquired Human Immunodeficiency Syndrome Insurance Program (Program) since 1993. The Program ensures health insurance coverage for persons with human immunodeficiency syndrome who meet Department eligibility standards and are eligible for "continuation coverage" under federal COBRA standards or group insurance policies.

Summary: The statute authorizing the Department to operate the program which ensures health insurance coverage for persons with human immunodeficiency virus, who meet eligibility requirements and are eligible for "continuation coverage" under federal COBRA standards, is repealed. The Department of Health is authorized to ensure health insurance coverage for eligible persons either through group or individual health insurance policies. The program will be open to individuals who are not eligible for medical assistance programs from the Department.

Votes on Final Passage:

House	93	0
Senate	47	0

Effective: July 1, 2003

ESHB 1277

C 19 L 03

Gaining independence for students by creating the educational assistance grant program for financially needy students with dependents.

By House Committee on Higher Education (originally sponsored by Representatives Kenney, Cox, Jarrett, Chase, Veloria, Kessler and Upthegrove).

House Committee on Higher Education
Senate Committee on Higher Education

Background: Financially needy students with dependents may incur expenses for childcare and other dependent-related needs. The State Need Grant Program provides a supplemental childcare allowance to recipients with qualifying dependents. The childcare supplement is administered at the campus level. The maximum childcare supplement for the 2002-03 school year was $643.

Summary: The Educational Assistance Grant Program for Students with Dependents (Program) is created. The Program is funded by private endowments only and is administered by the Higher Education Coordinating Board (HECB). The Program Account is created in the custody of the State Treasurer. The HECB may solicit and receive endowments from private sources for the use and benefit of the Program. The HECB administrative duties are triggered when the Program Account balance reaches $500,000.

Students with dependents under the age of 18 years who participate in the State Need Grant Program are eligible for a minimum grant of $1,000 per academic year. Individual awards are determined according to criteria developed by the HECB and according to the student's documented financial need. The HECB is authorized to adjust the amount of the award to account for any supplanting or reduction of any other grant, scholarship, or tax program.

Votes on Final Passage:

House	95	0
Senate	47	0

Effective: July 27, 2003

SHB 1278

C 302 L 03

Listing property for tax purposes.

By House Committee on Finance (originally sponsored by Representatives Conway, Cairnes, Kirby and Bush).

House Committee on Finance
Senate Committee on Government Operations & Elections

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 and farmers. Household goods and business inventories are specifically exempt from personal property tax.

Property owners must file an annual listing of all taxable personal property. Owners list each item, the acquisition cost, and the year acquired. The assessor then determines the value based on this information. Once property is assessed and listed on the tax rolls, the assessor mails the property owner a new affidavit at the beginning of each calendar year. The property owner must verify the list, add or delete property as appropriate, and sign and return the affidavit to the county assessor by April 30. The affidavit must be signed and verified under penalty of perjury by the person listing the property.

Summary: The requirement that personal property affidavits must be signed and verified under penalty of perjury is eliminated. The assessor may electronically transmit personal property lists to property owners. Property owners may electronically transmit personal property affidavits to the assessor.

Votes on Final Passage:

House	96	0
Senate	49	0

Effective: July 27, 2003

HB 1280
C 6 L 03

Changing provisions for financing contracts for state university research facilities or equipment.

By Representatives Murray, Alexander and Dunshee; by request of University of Washington.

House Committee on Capital Budget
Senate Committee on Ways & Means

Background: Generally, new capital facilities for state agencies and higher education institutions must be specifically authorized by the Legislature. The Legislature has authorized the regents and trustees of the four-year public institutions of higher education to issue revenue bonds and other debt to finance certain types of capital facilities without specific legislative approval. This includes financing student housing, dining halls, facilities for student activities and parking. Typically the bond-holders are secured only by the university's revenues from its facilities; the debt is not a general obligation of the state.

In 2002 the Legislature authorized the University of Washington (UW) and Washington State University (WSU) to acquire and finance research facilities and related equipment through the non-state fees and revenues each university receives from its facilities or research activities. This financing includes issuing local bonds or entering into lease purchase agreements. The regents must consider the maintenance and operating costs of the research facility and related equipment. State-appropriated funds may not be used for maintenance and operating expenses or to support grant or contract research in these facilities. The universities must report annually to the Legislature on the financing of research facilities under this authority.

The UW and the WSU had prior statutory authorization to enter into financing contracts supported by non-state funds without State Finance Committee approval. A statutory reference in the 2002 legislation to make the institutions' new financing authority for research facilities consistent with this existing statute excluded the new authority rather than including it.

Summary: The University of Washington and Washington State University are authorized to enter into financing contracts supported by non-state research-related funds to finance research facilities and related equipment without prior notice and approval of the State Finance Committee. Clarification is also made that the two universities may acquire real property for these research facilities using financing contracts supported by non-state research-related funds without prior legislative approval.

Votes on Final Passage:

House	97	0
Senate	48	1

Effective: July 27, 2003

ESHB 1288
C 3 L 03 E1

Issuing general obligation bonds.

By House Committee on Capital Budget (originally sponsored by Representatives Dunshee and Alexander; by request of Office of Financial Management).

House Committee on Capital Budget

Background: The State of Washington periodically issues general obligation bonds to finance projects authorized in the capital and transportation budgets. General obligation bonds pledge the full faith and credit and taxing power of the state towards payment of debt service. Legislation authorizing the issuance of bonds requires a 60 percent majority vote in both the House of Representatives and the Senate.

Bond authorization legislation generally specifies the account or accounts into which bond sale proceeds

are deposited, as well as the source of debt service payments. When debt service payments are due, the State Treasurer withdraws the amounts necessary to make the payments from the State General Fund and deposits them into the bond retirement funds.

The State Finance Committee, composed of the Governor, the Lieutenant Governor, and the State Treasurer, is responsible for supervising and controlling the issuance of all state bonds.

Summary: The State Finance Committee is authorized to issue state general obligation bonds to finance $1.17 billion in projects in the 2003-05 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:

First Special Session

House	90	6
Senate	46	0

Effective: June 20, 2003

HB 1289

C 181 L 03

Concerning temporary fishing licenses.

By Representatives Hinkle, Grant, Sump, Blake, Bush, Hatfield, Newhouse, Hunt, Buck, Mielke and McDonald.

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

Background: A personal use saltwater, freshwater, combination, or temporary license is required for all persons 15 years of age or older to fish for or possess fish taken for personal use from state or offshore waters. A temporary fishing license costs $6 and is valid for two consecutive days. Temporary fishing licenses are not valid on game fish species during the first eight days of the lowland lake fishing season.

Summary: Active duty military personnel serving in any branch of the United States Armed Forces are exempt from the provision that prohibits the use of a temporary fishing license for game fish species during the first eight days of the lowland lake fishing season.

Votes on Final Passage:

House	97	0	
Senate	49	0	(Senate amended)
House	97	0	(House concurred)

Effective: May 9, 2003

SHB 1291

C 304 L 03

Providing for elections for flood control zone district supervisors.

By House Committee on Local Government (originally sponsored by Representatives Blake, Schindler, Hatfield, Romero and Mielke).

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

Background: Flood control zone districts are special purpose districts that operate as quasi-municipal corporations. Their purpose is to pursue flood control activities that benefit specified areas of the whole county. Flood control zone districts are governed by a "board of supervisors" who are members of the county legislative authority and have the power of condemnation. They are funded by property taxes, benefit assessments, service charges, voluntary assessments, and bonds. Flood control zone districts are administered by the county engineer.

Summary: A flood control zone district with more than 2,000 residents may choose to elect the board of supervisors for the district. The election may be held upon resolution of the county legislative authority or upon petition submitted to the county auditor of 15 percent or more of the registered voters within the zone. Three elected zone supervisors are elected at large, without a primary, for six-year staggered terms. The person receiving the greatest number of votes for each position is elected.

Votes on Final Passage:

House	97	0
Senate	47	0

Effective: July 27, 2003

HB 1292

C 96 L 03

Authorizing additional superior court judicial positions.

By Representatives Rockefeller, Delvin, Grant, Moeller, Hankins, Hinkle, Mastin, Eickmeyer, Orcutt, Wallace, Fromhold, Haigh, Holmquist, McMahan and Woods; by request of Administrative Office of the Courts.

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

Background: The Legislature sets by statute the number of superior court judges in each county. The Administrative Office of the Courts periodically performs an objective workload analysis to determine the need for additional judicial positions in the various counties.

Clark County has eight statutorily authorized judges. The objective workload analysis indicates a need for an additional three judicial officers in the county.

Kitsap County has seven statutorily authorized judges. The objective workload analysis indicates a need for one additional judicial officer in the county.

Kittitas County has one statutorily authorized judge. The objective workload analysis indicates a need for .2 additional judicial officers in the county.

Benton/Franklin County jointly has five statutorily authorized judges. The objective workload analysis indicates a need for 1.4 additional judicial officers in the county.

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

Summary: Superior court judicial positions are increased in several counties as follows:

- Clark County - from eight to 10;
- Kitsap County - from seven to eight;
- Kittitas County - from one to two; and
- Benton/Franklin County - from five to six.

Various effective dates for each of the new judicial positions are provided, but the actual starting date for a position may be established by the county's legislative authority upon request of the superior court and recommendation of the county executive authority.

The judicial positions are effective only if the county legislative authority of each county documents its approval and agrees to pay for the county's share of the expenses of the new positions.

Votes on Final Passage:

House	92	1
Senate	47	0

Effective: July 27, 2003

HB 1294

C 123 L 03

Revising campaign finance reporting requirements for out-of-state political committees.

By Representatives McDermott, Haigh, Armstrong, Nixon, Miloscia, Dickerson and Mielke; by request of Public Disclosure Commission.

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

Background: The Public Disclosure Commission (PDC) enforces the campaign finance laws for candidates and ballot propositions in state and local elections. Political campaigns must document and report almost all contributions and expenditures in campaign finance reports filed with the PDC at regular intervals.

Federal and out-of-state political committees are required to file C-5 reports with the PDC if they make a contribution to or an expenditure on behalf of a Washington political committee.- Contributions received from federal or out-of-state political committees must be reported by the political committee operating in Washington. If the federal or out-of-state political committee fails to file a C-5 report within 10 days of making the contribution, the campaign must forfeit the contribution to the state.

The Federal Elections Commission (FEC) enforces campaign finance laws for candidates in federal elections. The FEC has a number of methods and schedules for political committees to file reports. Those committees that file monthly must list all contributions and expenditures for one month in a report filed by the 20th day of the following month.

Summary: Washington political committees are no longer required to forfeit contributions from federal or out-of-state political committees. A federal or out-of-state political committee that makes a contribution to or an expenditure on behalf of a Washington political committee must file a report with the PDC by the 20th day of the following month unless it already files regularly with the FEC, in which case it is exempt from the PDC filing requirement.

Votes on Final Passage:

House	95	0
Senate	48	0

Effective: July 27, 2003

HB 1296

C 275 L 03

Making corrections to the department of health's professional and facilities licensing provisions.

By Representatives Moeller and Pflug; by request of Department of Health.

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

Background: The Department of Health and the various professional boards regulate 55 types of health care professions and 45 types of health-related facilities and services. These entities issue credentials, establish minimum standards for professional practice, and take disciplinary actions against credentialed members of the profession that engage in unprofessional conduct. Disciplinary actions for health care providers who are licensed, certified, or registered are generally governed by the Uniform Disciplinary Act. Disciplinary actions for health-related facilities and credentialed health pro-

fessionals not covered by the Uniform Disciplinary Act are governed by the Administrative Procedure Act.

Summary: The following technical changes are made to various statutes regulating health care professions:

- A reference to fees for physician "certificates" is changed to "licenses."
- A drafting error that references facilities licensed under "chapter 71.12 RCW" is changed to "chapter 71A.12 RCW."
- One of the two identical statutory sections stating that those who purchase, distribute, or dispense legend drugs must maintain records to account for the receipt and disposition of these drugs is eliminated.

Dispensing optician apprentices are added to the Uniform Disciplinary Act.

Votes on Final Passage:

House	94	0
Senate	46	0

Effective: July 27, 2003
July 1, 2003 (Section 2)

ESHB 1299
C 276 L 03

Providing for uniform policies for health services purchasing by state purchased health care programs.

By House Committee on Health Care (originally sponsored by Representatives Cody, Sommers, Morrell, Schual-Berke and Dickerson).

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

Background: The Health Care Authority (Authority) is responsible for studying all state-purchased health care, alternative health care delivery systems, and strategies for the procurement of health care services, and for making recommendations aimed at minimizing the financial burden which health care poses on the state. The Authority is also expected to implement state initiatives, joint purchasing strategies, cost-control strategies, and techniques for efficient administration that have potential application to all state-purchased health services.

Summary: The Health Care Authority is required to coordinate the development and implementation of uniform policies across all state-purchased health care programs related to purchasing, maximizing administrative efficiencies, improving quality of care, and reducing administrative burdens on participating health care providers. The policies will require uniform means of assessing health care services, monitoring several aspects of health services, developing common definitions of medical necessity, and exploring common disease and demand management strategies.

Votes on Final Passage:

House	92	0
Senate	49	0

Effective: July 27, 2003

HB 1318
C 65 L 03

Allowing the state board of health to reference the United States food and drug administration's food code for the purpose of adopting food service rules.

By Representatives Darneille, Cody, Clements, Campbell, Bush, Anderson and Pflug; by request of Department of Health.

House Committee on Health Care
Senate Committee on Agriculture

Background: The United States Food and Drug Administration (FDA) estimates that every year there are 76 million occurrences of food borne illnesses resulting in approximately 324,000 hospitalizations and 5,200 deaths.

The FDA provides guidance to state and local agencies regarding safe food service practices. The FDA developed the Food Code in cooperation with the Centers for Disease Control and Prevention and the United States Department of Agriculture to provide current enforcement standards for safe food service practices. The Food Code was first published in 1993 and has been revised every two years since that time. At least 30 states have adopted one of these versions of the Food Code.

The Washington State Board of Health (Board) is authorized to establish minimum standards for the prevention and control of food borne illnesses. Local jurisdictions may adopt more stringent standards. The Board's rules direct food service establishments in the areas of food supplies, food protection, public health labeling, food preparation, temperature control, personal hygiene, garbage and litter, sanitary equipment, and pest control.

Summary: When adopting rules for food service, the Washington State Board of Health must consider the current version of the United States Food and Drug Administration's Food Code.

Votes on Final Passage:

House	95	0
Senate	46	0

Effective: July 27, 2003

SHB 1335
C 338 L 03

Continuing the development of water trail sites in Washington state.

By House Committee on Fisheries, Ecology & Parks (originally sponsored by Representatives Cooper, Sump, Berkey and Hudgins; by request of Parks and Recreation Commission).

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

Background: The water trail recreation program was established in 1993 and is administered by the State Parks and Recreation Commission (Commission). The Commission is charged with planning, constructing, and maintaining facilities for water trail activities.

An annual permit is required for camping at sites designated as water trail sites. All revenues from the water trail permit and revenues from maps or publications are deposited in the Water Trail Program Account.

A 12 member advisory committee advises the Commission on the development of water trail facilities and programs. The advisory committee is required to meet at least twice annually.

Summary: The annual water trail permit, the Water Trail Program Account, and the Water Trail Advisory Committee are eliminated. Any unspent funds in the Water Trail Program Account are transferred to the Parks Renewal and Stewardship Account and may only be used for water trail purposes.

Votes on Final Passage:

House	93	2	
Senate	49	0	(Senate amended)
House			(House refused to concur)
Senate	46	0	(Senate receded)

Effective: July 27, 2003

2E2SHB 1336
C 4 L 03 E1

Concerning watershed planning.

By House Committee on Appropriations (originally sponsored by Representatives Linville, Kirby, Grant, Rockefeller, Quall, Hunt, Shabro, Jarrett, Delvin, Morris and Conway; by request of Governor Locke).

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

Background: Watershed Planning. State watershed planning laws provide a process for conducting watershed planning through a locally initiated process. If planning is conducted under this process, it must include a component on current and future water availability and use. It may include components regarding instream flows, water quality, and habitat.

Watershed planning may be conducted for one watershed or water resource inventory area (WRIA) or it may be conducted for multiple WRIAs. For this purpose, the local governments that initiate the process select or create a planning unit and designate a lead agency to provide staff support for the planning unit. Grants are available from the Department of Ecology (DOE) for organizing a planning unit and establishing work schedules, for conducting assessments, studying storage opportunities, and setting instream flows, and for developing a watershed plan and making recommendations for actions to be taken. Once a plan is approved by the planning unit, it is submitted to each of the counties with territory in the watershed or watersheds for which planning was conducted. After publishing notice and conducting at least one public hearing per county, the legislative authorities of these counties are to approve or disapprove of the plan in a joint session. If approved by the counties, the plan is an approved watershed plan.

Other Water-Related Planning in Watersheds. Under the salmon recovery laws, committees evaluate and develop habitat project lists which a local "lead entity" submits to the state's Salmon Recovery Funding Board for ranking and awarding of funding. The DOE is the state agency delegated authority to implement provisions of the federal Clean Water Act. Under that authority, the DOE develops total maximum daily load assessments and allocations (TMDLs) for water bodies that violate water quality standards. The TMDLs are submitted to the U. S. Environmental Protection Agency for approval.

Summary: Grants. State phase IV grants for watershed plan coordination and oversight are authorized. A planning unit may receive up to: $100,000 for each of the first three years; and $50,000 per year for each of two extension years. If planning was conducted for more than one WRIA, an additional $25,000 per year per additional WRIA may be available for first three years; and an additional $12,500 per year per additional WRIA for the two extension years. A match of 10 percent is required for the funding. The match may include financial contributions or in-kind goods and services directly related to coordination and oversight functions.

Detailed Implementation Plans. Within one year of accepting phase IV funding, the planning unit must complete a detailed implementation plan. Submitting a detailed implementation plan to the DOE is a condition for receiving grants for the second and all subsequent years of the phase IV grant. The implementation plan must contain strategies to provide sufficient water for: production agriculture; commercial, industrial, and residential use; and instream flows. It must contain timelines to achieve these strategies and interim milestones to

measure progress. It must also clearly define: coordination and oversight responsibilities; any needed interlocal agreements, rules, or ordinances; any needed state or local administrative approvals and permits that must be secured; and specific funding mechanisms. The planning unit must consult with other entities planning in the watershed management area and identify and seek to eliminate any activities or policies that are duplicative or inconsistent.

Approving a Plan - Opting Out. A county legislative authority may choose to opt out of watershed planning if the county's affected territory within a watershed planning area is less than 5 percent of the total territory within the area. It may also opt out if its part of the planning area is 5 percent or more with the consent of all other governments that initiated planning in the area. The county must notify the DOE and the other initiating governments of that choice prior to the beginning of the process to adopt the plan. Such a county is not bound by obligations contained in the watershed plan.

Effect of a Plan. If the DOE participated in the planning process leading to the adoption of a watershed plan under the watershed planning laws, the plan is deemed to satisfy the watershed planning authority of the DOE with respect to the components included in the plan for the watershed. The DOE must use such a plan as the framework for making future water resource decisions for the watershed and must rely upon the plan as a primary consideration in determining the public interest related to those decisions. Once a watershed plan has been approved under these laws for a watershed, the DOE may develop and adopt modifications to the plan or obligations imposed by the plan only through a form of negotiated rule-making that uses the same processes that applied in that watershed for developing the plan.

Reports. By December 1, 2003, and by December 1st of each subsequent year, the DOE must report to the Legislature regarding: statutory changes necessary to enable state agency approval or permit decision making needed to implement an approved plan; and on the progress of setting instream flows as part of watershed planning and otherwise.

Other. A state agency may adopt policies, procedures, or agreements related to the obligations or implementation of the obligations in addition to or in lieu of adopting implementing rules if the agency has the consent of the planning unit to do so. Entities carrying out their obligations under a watershed plan should annually review implementation needs with respect to budget and staffing and organizations voluntarily accepting such an obligation must additionally adopt policies, procedures, agreements, rules, or ordinances for carrying out those obligations.

Votes on Final Passage:

House	56	41	
Senate	37	11	(Senate amended)
First Special Session			
House	73	24	
Senate	31	13	

Effective: September 9, 2003

2E2SHB 1338

C 5 L 03 E1

Providing additional certainty for municipal water rights.

By House Committee on Appropriations (originally sponsored by Representatives Linville, Kirby, Lantz, Rockefeller, Shabro, Jarrett, Grant, Quall, Hunt, Delvin, Wallace, Woods, Benson, Morris and Conway; by request of Governor Locke).

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

Background: Water Rights. A water right has several elements or conditions that identify limitations on the use of water under the right. One is its priority. Other elements of the water right include: the amount of water that may be withdrawn from a particular water source under the right, the time of year and point from which the water may be withdrawn, the type of water use authorized under the right (such as an agricultural or municipal use), and the place that the water may be used.

In the past, many water right certificates were issued by the State for municipal use once the main withdrawal and distribution works had been constructed for using the water, but before all of the water was actually put to use. Under this "pumps and pipes" philosophy, a municipality could develop its actual use over time, without affecting its certificated water right. In a recent case involving the water right of a private developer, the State's Supreme Court stated that a final water right certificate may not be issued for the developer's right for a quantity of water that has not actually been put to beneficial use. The Court stated that it declined to address issues concerning municipal water suppliers in the context of the case. However, in a draft policy that the Department of Ecology (DOE) circulated and subsequently withdrew, the DOE stated its conclusion that the holdings of the Court in the case apply to all water rights, including municipal water rights.

Transfers. Certain elements or conditions of a water right may be modified with the approval of the DOE either directly or through its review of the decision of a water conservancy board. These modifications are referred to in the water codes as transfers, changes, and amendments. They are referred to here collectively as

"transfers." Where a county or counties have created a water conservancy board, the board may process applications for transfers and may act on the applications. A board's decision regarding an application is subject to approval by the DOE. Approving a transfer does not affect the priority date of the right. The transfer cannot be approved if it would impair other existing water rights, whether junior or senior.

Watershed Planning. The Water Resources Act (Act) directs the DOE to develop a comprehensive state water resources program for making decisions on future water resource allocation and use. The Act permits the DOE to develop the program in segments. Under the Act, the DOE has divided the state into 62 water resource inventory areas (WRIAs). The watershed planning law enacted in 1998 establishes a process for the development of watershed plans under a locally initiated planning process. Such watershed planning may be initiated for a single WRIA or for a multi-WRIA area.

Water System Plans. The State Board of Health is directed by state law to adopt rules regarding public water supply systems. Under these rules, certain public water systems are required to submit water system plans or small water system management programs to the Department of Health (DOH) for review and approval. Other law requires the development of coordinated water system plans for critical water supply areas.

Summary: Water Rights for Municipal Supplies. A water right represented by a water right certificate issued in the past for municipal water supply purposes once works for diverting or withdrawing and distributing water were constructed, rather than after the water had been placed to actual beneficial use, is declared to be in good standing. However, from now on, the DOE must issue a water right certificate for a new water right only for the perfected portion of the right as demonstrated through the actual beneficial use of water. The DOE must not revoke or diminish any water right certificate held for municipal water supply purposes unless the certificate was issued with ministerial errors or through misrepresentation, and then only to the extent of the errors or misrepresentation. This prohibition does not apply to the DOE's fulfilling its responsibilities to issue certificates at the conclusion of a general adjudication proceeding or following the change, transfer, or amendment of a water right.

A water right that is held for "municipal water supply purposes" is defined for the water code. It is a beneficial use of water: for residential purposes through 15 or more residential service connections or for a nonresidential population that is, on average, at least 25 people for at least 60 days a year; for governmental or governmental proprietary purposes by certain units of local government; or indirectly for either of these purposes through the delivery of treated or raw water to a public water system. If an entity's use of water satisfies any of these criteria, its other beneficial uses of water generally associated with the use of water within a municipality are also uses for municipal water supply purposes. When requested by a municipal water supplier or when processing a change or amendment to a right, the DOE must amend the water right documents and related records to ensure that municipal supply purpose rights are correctly identified.

The use of water that has been diverted or withdrawn for municipal water supply purposes may also include uses that: benefit fish and wildlife, water quality, or other instream resources or related habitat; or are needed to implement environmental obligations called for by an approved watershed plan, by a federal hydropower license, by a habitat conservation plan prepared in response to a listing of a species as being threatened or endangered under the federal Endangered Species Act, or by a comprehensive irrigation district management plan.

Hook Ups; Population Served; Place of Use. Information in an application or subsequent water right document for a water right for municipal water supplies regarding the number of hookups or the population to be served under the right does not limit the exercise of the right regarding the hookups or population if: the municipal supplier has a water system plan approved by the DOH or has the approval of the DOH to serve a specified number of service connections; and water service to the hookups or population served is consistent with the plan or DOH approval.

The effect of the DOH's approval of a planning or engineering document that describes a municipal water supplier's service area, or the local legislative authority's approval of service area boundaries under a coordinated water system plan, is that any part of the service area that had been outside of the place of use for the water right involved becomes part of the water right's place of use. This applies if the supplier is in compliance with the terms of its water system plan or small water system management program, including those regarding water conservation, and adding the area to the place of use under the right is not inconsistent with the applicable comprehensive plans, land use plans or development regulations of cities, towns, or counties or with an approved watershed plan for the area.

Conservation Requirements. The DOH must develop conservation planning requirements which ensure that municipal water suppliers: implement programs to integrate conservation with water system operation and management; and identify how to fund and implement conservation activities. It must review its current conservation planning guidelines and include those elements that are appropriate for rules. These requirements apply to all municipal water suppliers; they must be tailored to be appropriate to system size, forecasted system demand, and system supply characteristics. Conservation plan-

ning requirements must include the: selection of cost-effective measures to achieve a system's water conservation objectives; evaluation of the feasibility of adopting and implementing water delivery rate structures that encourage water conservation; evaluation of the system's water distribution system leakage and an identification of any steps necessary for achieving DOH's leakage standards; collection and reporting of water consumption, source production, and water purchase data and the frequency for reporting such information; and establishment of minimum requirements for water demand forecast methodologies.

The DOH must also develop water distribution system leakage standards. It must institute a graduated system of requirements based on levels of water system leakage, but must not require less than 10 percent leakage for the total system's supply. The DOH must establish minimum requirements for water conservation performance reporting which must include: the adoption in a public forum and achievement of water conservation goals by suppliers; the adoption of implementation schedules; a public reporting system for regular reviews of conservation performance against adopted goals; and requirements for modifying plans if conservation goals are not being met. If a municipal water supplier determines that further reductions in consumption are not reasonably achievable, it must identify how current consumption levels will be maintained. The DOH must adopt implementing rules by December 31, 2005, and must establish a compliance process that incorporates a graduated approach employing the full range of compliance mechanisms.

The DOH must establish an advisory committee to assist it in developing rules for water use efficiency, including conservation planning, distribution leakage standards, and conservation reporting requirements. The agency must provide technical assistance upon request to municipal water suppliers and local governments regarding water conservation, which may include development of best management practices for water conservation programs, landscape ordinances, rate structures for public water systems, and public education programs regarding water conservation.

Before DOH's new conservation rules take effect, a municipal supplier must continue to meet DOH's existing conservation requirements and must continue to implement its current conservation programs.

A municipal supplier with 1,000 or more service connections must, in preparing its regular water system plan updates, describe its conservation measures, the improvements in efficiency resulting from the conservation measures in the last six years, and projected effects of conservation on delaying its use of inchoate water rights before it may divert or withdraw additional inchoate (as yet unused) water. This requirement must be taken into consideration by the DOE when it establishes or extends a construction schedule under a water right permit. The time-lines and interim milestones in a detailed watershed implementation plan (required by Second Engrossed Second Substitute House Bill 1336) must address the planned future use of existing water rights for municipal water supply purposes that are inchoate. In doing so, it must address how these rights will be used to meet the projected future needs identified in the watershed plan and how the use of these rights will be addressed when implementing instream flow strategies identified in the watershed plan.

The DOE must prioritize the use of its funds and resources related to streamflow restoration in watersheds where the use of inchoate water rights may have a larger effect on stream flows and other water uses.

Funding. The DOH is authorized to charge municipal suppliers an annual fee of 25 cents per residential connection or its equivalent until June 30, 2007, to provide funding for conservation activities.

Approving Plans; Duty to Provide Retail Service. In approving the water system plan of public water system, the DOH must ensure that water service under the plan for any new industrial, commercial, or residential use is consistent with the requirements of comprehensive plans, land use plans, or development regulations. A municipal water supplier has a duty to provide retail water service within its retail service area if: its service can be available in a timely and reasonable manner; the supplier has sufficient water rights to provide the service; the supplier has sufficient capacity to serve the water in a safe and reliable manner as determined by the DOH; and it is consistent with the requirements of any applicable comprehensive plan, development regulations, or land use plan adopted by a city, town, or county for the service area. For water service by the water utility of a city or town, the service must also be consistent with the utility service extension ordinances of the city or town. The DOH must annually compile lists of water system plans to be reviewed in the next year and consult with certain other state agencies to identify watersheds where further coordination between system planning and watershed planning is needed and must develop a work plan to accomplish that coordination.

Wastewater Plans. Certain opportunities for water reclamation and reuse under the reclaimed water laws must be evaluated in the development of water system plans. This requirement does not apply to plans for serving less than 1,000 hookups.

Sewer plans must include an analysis of the impact of water conservation measures on sewer treatment capacity. They must include a description of its coordination with any reclaimed water elements of a regional water supply plan.

Transferring Inchoate Municipal Water Rights. The right to use water under an unperfected surface water right held for municipal water supply purposes may be

changed or transferred for any purpose if: (1) the supplier is in compliance with the terms of an approved water system plan or small water system management program, including those regarding water conservation. If the recipient of the water is a water supply system, the receiving system must also be in compliance with the terms of its approved plan or program; (2) instream flows have been established by rule for the water resource inventory area that is the source of the water for the transfer or change; (3) a comprehensive watershed plan has been approved for the water resource inventory area and a detailed implementation plan (that satisfies the requirements of 2E2SHB 1336) has been competed; and (4) stream flows that satisfy the instream flow requirements, or the milestones for satisfying those instream flows that are identified in the detailed implementation plan for the watershed, are being met.

If these criteria are not satisfied, the unperfected part of the right may nonetheless be changed or transferred if the change or transfer: is subject to stream flow protection or restoration requirements of an approved habitat conservation plan or a federal hydropower license; is subject to instream flow requirements or agreements and the water right from which it is changed or transferred is also subject to such requirements or agreements; or is needed to resolve or alleviate a public health or safety emergency caused by a failing public water supply system. The criteria for such a failing system are listed and do not include inadequate water rights to serve existing or future hookups.

Watershed Agreements. On a pilot project basis, the DOE may enter into watershed agreements with a municipal water supplier to meet the objectives of a watershed plan that has been approved or is under development. The pilot project is to be conducted in water resource inventory area number one, with the consent of the governments that initiated watershed planning for the watershed. The agreements are for not more than 10 years, but may be renewed. They must be originally entered into before July 1, 2008. An agreement must be consistent with: adopted growth management plans developed under the Growth Management Act; approved water supply plans; adopted watershed plans; and the water use efficiency and conservation requirements of the DOH or those of an approved watershed plan, whichever are more stringent. An agreement must require the participating water system to meet obligations under an approved watershed plan; must establish performance measures and time lines and annual reporting regarding them; and provide for stream flow monitoring and metering of water use, as needed to ensure compliance. An agreement is appealable to the Pollution Control Hearings Board within 30 days of being approved by the DOE. The DOE must report to the Legislature regarding the pilot project before the end of 2003 and 2004.

Votes on Final Passage:

House 57 40
First Special Session
House 83 14
Senate 33 11

Effective: September 9, 2003

SHB 1346
C 66 L 03

Changing provisions relating to vacation of records of conviction for pre-sentencing reform act felony offenses.

By House Committee on Judiciary (originally sponsored by Representatives Lovick, Cairnes, Rockefeller, Campbell, Moeller, Clibborn, Cooper, Flannigan, Simpson, Kagi, Pettigrew and Chase).

House Committee on Judiciary
Senate Committee on Judiciary

Background: Vacation of Records of Felony Convictions under the Sentencing Reform Act (SRA) Under the SRA an offender may be able to have his or her record of a felony conviction vacated after a certain amount of time has passed. Vacation of the record has the effect of removing "all penalties and disabilities" that resulted from the offense. It also prevents the offense from being used as "criminal history" for purposes of establishing the offender score in sentencing for a subsequent offense under the SRA. Finally, vacation of the record allows the offender to respond on an employment application that he or she has never been convicted of that crime. Once a felony record has been vacated under the SRA and is no longer a part of criminal history, the Washington State Patrol and other law enforcement agencies may not disseminate the record except to other law enforcement agencies.

The vacation of a record of conviction does not, however, prevent that conviction from being used in a later criminal prosecution to impeach a witness or to establish an element of a crime. For instance, it is still possible to use a vacated prior conviction in a prosecution for a crime that becomes a more serious offense on a second or subsequent conviction.

Vacation of a felony record is at the discretion of a judge, with the following limitations:

- No vacation is possible for any class A felony, any violent offense, or any "crime against persons." (These categories cover many crimes, including all murders, all felony sex offenses, all assaults, and many other crimes that are covered by the Washington State Patrol's background check authority regarding prospective employees who may have contact with children.)
- No vacation is possible if the offender has any criminal charges pending.

- No vacation is possible if the offender has been convicted of any other crime since completion of his or her sentence for the offense for which vacation is being sought.
- At least 10 years must have passed since completion of the sentence if the offense was a class B felony.
- At least five years must have passed since completion of the sentence if the offense was a class C felony.

These vacation of record provisions apply only to offenders sentenced under the SRA. The SRA applies only to felonies committed on or after July 1, 1984.

Pre-SRA Records of Felony Convictions. For felonies committed before July 1, 1984, there are no statutory provisions expressly authorizing the vacation of records.

However, for pre-SRA felons who have successfully completed parole after a prison sentence, the Indeterminate Sentence Review Board (ISRB) may issue a certificate of discharge if the ISRB determines that the person's final release "is not incompatible with the best interests of society and the welfare of the paroled individual." A certificate of discharge has the effect of "restoring all civil rights."

Some pre-SRA felons were not sentenced to prison, but instead served suspended sentences and a period of probation. If a felon has successfully completed the period of probation he or she may be "released from all penalties and disabilities" that resulted from conviction. However, a release does not prevent the record of conviction from being used in a subsequent prosecution. An application for release must be made "prior to the expiration of the maximum period of punishment for the offense." Under another provision, a pre-SRA felon who received a suspended sentence may apply for "restoration of his civil rights."

Convictions for certain crimes do not qualify for this restoration of rights. These crimes are

murder, burglary in the first degree, arson in the first degree, robbery, rape, and rape of a child.

No statute authorizes pre-SRA felons to respond to an employment application by saying they have never been convicted of an offense. However, the Washington Supreme Court has held that the pre-SRA release from penalties provision is the functional equivalent of the SRA law with respect to vacations of records. The Court held that a pre-SRA felon who has been released from all penalties and disabilities following successful completion of probation may respond on an employment application that he or she has not been convicted of the offense. The Court also held that the effect of such a release is to direct criminal justice agencies not to release the record of conviction to prospective employers.

Summary: A pre-SRA felon who has successfully completed a suspended sentence and probation may apply for a vacation of the record of his or her conviction. The application for and granting of the vacation are subject to the same conditions and restrictions as apply to SRA felony convictions.

The effect of a vacation is also the same as for an SRA felony, including allowing the offender to respond on an employment application that he or she has not been convicted of the crime.

The same directions are given to law enforcement agencies regarding the treatment of vacated records as apply in the case of SRA vacations.

Votes on Final Passage:

House	96	0
Senate	45	0

Effective: July 27, 2003

HB 1348
C 67 L 03

Making technical corrections.

By Representatives Flannigan and Moeller; by request of Office of the Code Reviser.

House Committee on Judiciary
Senate Committee on Judiciary

Background: In 2002 the Legislature amended RCW 43.22.434 twice in the same bill. Both amendments added some identical language. One amendment added additional new provisions and made the entire section expire on April 1, 2004. The other amendment added additional new provisions that were to take effect on April 1, 2004.

Summary: RCW 43.22.434 is amended to retain the section and specify that certain provisions of the section are effective only until April 1, 2004, and other provisions are effective starting April 1, 2004.

Votes on Final Passage:

House	95	0
Senate	48	0

Effective: July 27, 2003

HB 1350
C 199 L 03

Repealing RCW 42.44.040.

By Representatives Flannigan and Moeller; by request of Office of the Code Reviser.

House Committee on Judiciary
Senate Committee on Judiciary

Background: In 2002 the Legislature passed Substitute House Bill 2512 relating to uniform regulation of business and professions. One provision of this act added language to RCW 42.44.030, relating to notaries public,

that is identical to the language contained in RCW 42.44.040.

Summary: RCW 42.44.040, which contains language that is identical to a provision of RCW 42.44.030, is repealed.

Votes on Final Passage:

House	90	6
Senate	48	0

Effective: July 27, 2003

HB 1351
C 254 L 03

Correcting outdated internal references.

By Representatives Flannigan and Moeller; by request of Office of the Code Reviser.

House Committee on Judiciary
Senate Committee on Judiciary

Background: Inaccuracies in the Revised Code of Washington may occur in a variety of ways. Sections may be repealed, recodified, or amended in a way that changes their internal numbering, or drafting and typographical errors may be made in the drafting process.

Summary: Various provisions of the Revised Code of Washington are amended to correct drafting errors and inaccurate cross-references.

Votes on Final Passage:

House	95	0
Senate	47	0

Effective: July 27, 2003

HB 1352
C 190 L 03

Apportioning railroad crossing installation and maintenance costs.

By Representatives Murray, Ericksen and Romero; by request of Utilities & Transportation Commission.

House Committee on Transportation
Senate Committee on Highways & Transportation

Background: In 1969 the Grade Crossing Protective Account (Account) was created to provide funds for projects such as improvements to signals and warning devices at public railroad crossings. The Account, administered by the Utilities and Transportation Commission (Commission), would pay for 60 percent of a project, the local or state government would pay for 30 percent of the project, and the railroad would pay the remaining 10 percent. In the 1980s the federal government increased its funding of these types of projects and required only a 1 percent match, which was paid from the Account. The Commission has found that smaller towns and smaller railroads are not able to pay the 30 percent and 10 percent matches, respectively, to fund projects.

Many of the projects previously funded out of the Account receive federal funding to cover 100 percent of the costs. The majority of these projects are located at heavily traveled, public railroad crossings.

The Account received a one-time appropriation from the Motor Vehicle Fund and the only revenue generated is the interest earnings on the account.

Summary: The purpose of the Account is broadened to include all rail safety projects that pose a high risk to public safety but are less likely to be funded by federal dollars. Types of projects include pedestrian safety, private crossings, and other rail safety hazards. The matching requirement for projects under $20,000 is waived.

The Commission will transfer money from its Public Service Revolving Fund's Miscellaneous Fees and Penalties Account, if needed to fund a project.

Votes on Final Passage:

House	96	0
Senate	48	0

Effective: July 27, 2003

HB 1356
C 296 L 03

Updating utilities and transportation commission regulatory fees.

By Representatives Dunshee, Sommers, DeBolt and Alexander; by request of Utilities & Transportation Commission.

House Committee on Appropriations
Senate Committee on Highways & Transportation

Background: Companies regulated by the Washington Utilities and Transportation Commission (WUTC) pay the cost of regulation through annual fees. Fees are based on a percentage of each company's gross annual operating revenue from intrastate operations. The minimum fee amounts are set in statute. The WUTC may adjust the fee rates as a part of its rate setting process but may not exceed the maximum rates set in statute.

The fee rates vary by category of company:

- For public utility, telecommunications, and certain transportation companies regulated by the WUTC, the fee is limited to a maximum of one-tenth of 1 percent on the first $50,000 plus two-tenths of 1 percent on any amount over $50,000. No fee may be less than $1.
- For auto transportation companies, the fee is limited to a maximum of two-fifths of 1 percent. No fee may be less than $2.50.

- For commercial ferry companies, the fee is limited to a maximum of two-fifths of 1 percent. No fee may be less than $5.
- For solid waste collection companies, the fee is limited to a maximum of 1 percent. No fee may be less than $1.

The amount collected from the fees must reflect the reasonable cost of regulating the companies. The WUTC may not waive minimum fees set out in statute.

Summary: The statutorily set minimum fees that the WUTC must charge regulated companies are removed. The WUTC is given rulemaking authority to set minimum fees charged to regulated companies, not to exceed the cost of collecting the fees. The WUTC also may, by rule, waive part or all of the minimum fees.

Votes on Final Passage:

House	89	0	
Senate	49	0	(Senate amended)
House	91	0	(House concurred)

Effective: July 27, 2003

HB 1361

C 396 L 03

Increasing the powers of the state agricultural commodity commissions.

By Representatives Linville, Schoesler, Grant and Holmquist.

House Committee on Agriculture & Natural Resources
Senate Committee on Agriculture

Background: A commodity commission may be established for a particular agricultural commodity. Some commodity commissions are created directly by statute. Some examples of commodities for which commissions have been created directly in statute are apple advertising, dairy products, and beef. A commodity commission also may be established according to the requirements of the Washington Agricultural Enabling Act (the 1955 enabling statutes). Commodity commissions have been created in this manner for wheat, potato, fryers, barley, and other commodities.

Another entity created for a particular commodity is a commodity board. A commodity board is created according to the Washington State Agricultural Enabling Act (the 1961 enabling statutes). Some examples of commodities for which boards have been created are hops, cranberries, asparagus, and turfgrass seed.

A commodity commission established according to the 1955 enabling statutes is created through the Department of Agriculture's issuance of a marketing order, which is adopted as a rule. Commodity commissions may be created in this manner to:

- plan and conduct advertising, sales promotion, and marketing programs;
- conduct research studies;
- improve standards and grades and provide labeling requirements;
- prevent unfair trade practices;
- provide marketing information and services;
- engage in cooperative efforts in domestic or foreign marketing; and
- provide information, communication, education, and training.

A commodity commission established according to the 1955 enabling statutes has the powers and duties specified in the marketing order creating it. In addition to those powers and among other powers specified in statute, a commodity commission may elect officers, adopt rules, administer and enforce the provisions of the marketing order, acquire property, borrow money, expend funds, enter into contracts, and engage in fund raising.

The state and its agencies are authorized to invest funds in various investment vehicles, including bonds, mutual funds, and money markets funds. State statutes specify requirements for investment and management of these state funds. The commodity commissions may place funds in savings or time deposits in banks, trust companies, and mutual savings banks or place funds in other allowable investments.

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

Summary: Commodity Commissions and Boards and Specific Commissions. Numerous provisions are added regarding supervision, governance, and operation of various commodity commissions created according to the 1955 enabling statutes, commodity boards created according to the 1961 enabling statutes, commissions for soft tree fruits, the Dairy Products Commission, the Beef Commission, and the Wine Commission. First, provisions are included regarding commissions' and boards' advertising and promotion. Each commission or board is specified to exist primarily for the benefit of the people of the state and its economy and is charged with speaking, with oversight by the Director of the Washington Department of Agriculture (WSDA), on behalf of the state government with regard to its particular commodity.

Second, provisions are added requiring approval by the WSDA Director of commodity commissions' and commodity boards' programs, activities, and budgets. Each commission and board must develop and submit to

the WSDA Director for review and approval any plans, programs, and projects concerning commodity advertising, promotion, market research projects, market development projects, research plans, education and training plans, and budgets. The commissions and boards must pay the WSDA's costs for these reviews. The Director of the WSDA must review each advertising or promotion program to ensure no false claims are begin made regarding the commodity. The WSDA Director also must strive for timely review of all submitted documents.

Third, provisions regarding selection of commission and board members are modified. The WSDA Director or designee serves as a voting member of each of these commissions and boards. In addition, requirements for election of commission and board members are modified by or replaced with various procedures for appointment by the WSDA Director of all or a majority of the members. Provisions also are included for advisory votes for appointment of commission and board members and for interim appointment of current members of some commissions and boards until their terms expire.

Fourth, a provision is added to the Diary Products Commission statutes specifying that neither the state of Washington or any of its subdivisions is liable for its debts or actions.

Commissions Created Under the 1955 Enabling Statutes. Additional authority is granted to commodity commissions created under the Washington Agricultural Enabling Act. In addition to other powers specified in statute, a commodity commission created in this manner may:

- request and audit records of producers or handlers of the affected commodity to determine whether the appropriate assessment has been paid;
- acquire or own intellectual property rights, licenses, or patents related to the affected commodity; and
- collect royalties resulting from commission-funded research related to the affected commodity.

Provisions regarding marketing orders for commodity commissions are amended. Among other purposes, marketing orders may be made for commodity commissions to assist and cooperate with the Department of Agriculture or any other federal, state, or local agency in investigating and controlling exotic pests and diseases that could damage or affect trade of the affected commodity.

The provision authorizing commodity commissions to invest funds is amended to reference statutes specifying requirements for management and investment of state funds.

Votes on Final Passage:

House	96	0	
Senate	49	0	(Senate amended)
House	91	0	(House concurred)

Effective: May 20, 2003

HB 1379
C 193 L 03

Authorizing agreements for speeding enforcement.

By Representatives Ericksen, Bush and Anderson.

House Committee on Transportation
Senate Committee on Highways & Transportation

Background: State law provides that motorists must comply with all rules of the road on public highways. In addition, certain traffic laws such as laws relating to accidents, reckless driving, DUIs, and vehicular assault may be enforced throughout the state, including both public and private roads. City, town, and county law enforcement officials, however, do not have authority to enforce other civil traffic laws, such as adherence to speed limits, on private roads.

To encourage traffic safety within private developments, homeowners' associations often adopt traffic safety rules and, in some cases, contract with private individuals (such as off-duty law enforcement officials) to enforce these rules. However, because these regulations are privately adopted, the citations issued are not enforceable beyond the authority of the homeowners' association.

Summary: Law enforcement personnel may enforce speeding violations on private roads within a homeowners' association, provided that:

- a majority of the homeowners' association's board of directors vote to authorize issuance of infractions and declares a speed limit of not less than 20 miles per hour;
- a written agreement regarding the speeding enforcement is signed by the homeowners' association president and the top law enforcement official within whose jurisdiction the road is located;
- the homeowners' association has provided written notice to all of the homeowners describing the new authority to issue speeding infractions; and
- signs have been posted declaring the speed limit at all vehicle entrances to the community.

Votes on Final Passage:

House	92	5	
Senate	45	4	(Senate amended)
House	89	8	(House concurred)

Effective: July 27, 2003

SHB 1380
C 335 L 03

Criminalizing mineral trespass.

By House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Ericksen, Sump, Mielke, Ahern, Clements, Hatfield, Pearson, Buck, Sullivan and Carrell).

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

Background: Mining. Regulations on mining are administered by both the state and federal governments. On certain federal land, a person may file a mining claim for mineral deposits, such as gold and silver. Mining claims on federal land also must comply with state regulations. Under Washington law, a federal mining claim must be recorded with the county auditor, and the claim site must have a posted notice of the claim. The posting must comply with specific requirements, including marking the boundaries of the claim and clearing brush or trees that interfere with the posting.

State land is not subject to the federal mining claim system. Instead, Washington leases land for prospecting purposes and enters into contracts for mining on state land. State law distinguishes small mining operations from other mining operations for certain regulatory purposes. A small scale prospecting and mining designation exempts small mining operations from some Department of Fish and Wildlife permitting requirements that regulate mining operations near rivers, streams and other bodies of water. Small scale prospecting and mining operations are defined as using pans, non-motorized sluice boxes, concentrators, and mini-rocker boxes for the discovery of minerals.

Current Offenses. General laws prohibit trespassing and malicious mischief. Criminal trespass is committed by knowingly entering or remaining unlawfully on a premises. The crime is a gross misdemeanor if the premises is a building and a misdemeanor if the premises is not a building. Malicious mischief is committed by knowingly and maliciously causing physical damage to the property of another or by interfering with public services. The offense varies from a class B felony to a misdemeanor, depending upon the amount of property damage.

The crime of theft includes both general actions and specific conduct on state lands. In general, theft is committed by wrongfully obtaining or exerting control over another's property with the intent to deprive the person of the property. The gravity of the offense ranges from a class B felony to a gross misdemeanor. More specific offenses related to actions on state lands include harming or removing any trees, engaging in any mining operations, or removing any valuable materials.

Unless otherwise specified, general provisions establish the maximum sentence allowed for each type of crime. Maximum sentences are: 10 years and/or $20,000 for a class B felony; five years and/or $10,000 for a class C felony; one year and/or $5,000 for a gross misdemeanor; and 90 days and/or $1,000 for a misdemeanor offense.

Summary: The crime of mineral trespassing is created. A person commits the crime of mineral trespass by intentionally and without the permission of the claim holder or person conducting the mining operation:

- stopping, causing to be stopped, or interfering with a lawful mining operation;
- entering a posted mining claim and disturbing, removing, or attempting to remove any mineral from the claim site;
- tampering with or disturbing a flume, rocker box, bedrock sluice, sluice box, dredge, quartz mill, or other mining equipment at a posted mining claim; or
- defacing a location stake, side post, corner post, landmark, monument, or posted written notice within a posted mining claim.

Mineral trespass is a class C felony. The crime is ranked on the adult sentencing grid as seriousness level I and on the juvenile sentencing grid as juvenile disposition offense category "C."

The crime of mineral trespass does not apply to conduct that is required or authorized by law or judicial decree or that is performed by a public servant in the exercise of official powers, duties, or functions. "Laws or judicial decrees" are defined for purposes of this exception as laws defining duties and functions of public servants, laws defining duties of private citizens to assist public servants in performing certain functions, and judgments and court orders.

"Mining claim" is defined for purposes of the mineral trespass offense as a portion of public lands claimed for valuable materials in those lands and for which the mineral rights are obtained under federal law or a right recognized by the federal Bureau of Land Management and given an identification number. Certain definitions related to mining activities are specified for purposes of establishing the crime of mineral trespass.

Votes on Final Passage:

House	96	0	
Senate	47	0	(Senate amended)
House	91	0	(House concurred)

Effective: July 27, 2003
July 1, 2004 (Section 5)

EHB 1388

C 373 L 03

Providing incentives to increase transportation revenues by reforming laws limiting the provision of passenger-only ferry service.

By Representatives Woods, Ericksen, Ahern, Schindler, Jarrett, Bush, Shabro, Anderson, Bailey, Talcott, Clements, Chandler, Mielke, Boldt, Newhouse, Schoesler, Nixon, Pearson, Pflug and McMahan.

House Committee on Transportation
Senate Committee on Highways & Transportation

Background: Ferries not operated by the Washington State Ferries (WSF) are prohibited from operating within 10 miles of established WSF routes unless granted a waiver from the Washington Utilities and Transportation Commission (UTC). The waver may be granted based upon written petition by a commercial ferry operator to the UTC.

In addition, any party assuming the operation and maintenance of any ferry or ferry system by rent, lease, or charter from the Washington State Department of Transportation (WSDOT) is bound by the WSDOT's contractual obligations, including existing labor contracts.

Summary: Operators of passenger-only ferry service are exempt from the 10-mile rule and no longer required to apply for a 10-mile rule waiver from the UTC to provide service. In addition, these operators would be allowed to use the WSDOT terminal, dock, and pier space if the space does not limit operation of the auto ferry service provided by the WSF system. Charges for equipment and space must be fair market value, taking into account public benefit from the passenger-only ferry service.

The UTC is to take into account public agencies operating or eligible to operate passenger- only ferry services when granting certificates of public convenience and necessity for private ferry operators. The UTC is prohibited, until March 1, 2005, from granting new passenger-only certificates to private ferry operators where Public Transportation Benefit Areas (PTBAs) or county ferry districts are authorized to operate passenger-only ferry service. Affected PTBAs may waive that prohibition in which case the UTC may grant certificates. The UTC may revoke a certificate if the private operator has not initiated service within 20 months after being granted the certificate.

Votes on Final Passage:

House	94	2
Senate	46	2

Effective: July 27, 2003

HB 1391

C 100 L 03

Adjusting procedures for postconviction DNA testing.

By Representatives Kagi, Delvin, O'Brien, Campbell, Sullivan, McIntire, Cooper, Moeller, Simpson, Flannigan, Wallace, Wood and Kenney.

House Committee on Criminal Justice & Corrections
Senate Committee on Children & Family Services & Corrections

Background: Postconviction DNA Testing. Through December 31, 2004, a person sentenced to imprisonment for a felony conviction who has been denied postconviction DNA testing may request postconviction DNA testing if the DNA testing was not admitted at his or her trial because:

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

The request for the postconviction DNA testing is made to the prosecutor's office in the county where the conviction was obtained. The request must be granted if the prosecutor determines that:

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

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

The DNA testing, if ordered, must be conducted by the Washington State Patrol Crime Laboratory.

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

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

Summary: Postconviction DNA Testing. Requests for postconviction DNA testing must be submitted to the Office of Public Defense (OPD). The OPD then transmits the request to the county prosecutor.

Appeals of Prosecutorial Denials. The prosecutor informs both the requestor and the OPD of the decision on testing. If the prosecutor denies the request, the prosecutor must advise the requestor of appeals rights.

Votes on Final Passage:

House	95	0
Senate	49	0

Effective: July 27, 2003

EHB 1395

C 345 L 03

Concerning the catering of alcoholic beverages at events by nonprofit organizations.

By Representatives Sullivan, Bailey, Wood, Chandler and Pflug.

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

Background: The Liquor Control Board licenses and controls the distribution of alcohol in Washington. A licenses is required to serve alcohol to the public.

Restaurants may apply for licenses to serve beer, wine, and spirits for on-premises consumption. These licensees may obtain a catering endorsement to serve alcohol away from their permanent places of business. A catering endorsement allows a licensee to serve and sell alcohol at "special occasions." A special occasion is a single event sponsored by a group or individual.

Under a catering endorsement, licensees may not serve alcohol at special occasions open to the public. The licensee may serve and sell alcohol at special occasions attended only by members and guests of nonprofit organizations.

If attendance at a special occasion is by invitation only, the event need not be sponsored by a nonprofit organization.

Summary: Restaurant liquor license holders with a catering endorsement may sell alcohol for on-premises consumption at events open to the public as long as the event is hosted by a nonprofit organization.

Votes on Final Passage:

House	97	0
Senate	45	4

Effective: July 27, 2003

EHB 1403

C 129 L 03

Changing exceptional faculty award grants.

By Representatives Kenney, Cox, Grant, Fromhold, Jarrett, Conway, McIntire, Benson, Berkey and Upthegrove; by request of State Board for Community and Technical Colleges.

House Committee on Higher Education
Senate Committee on Higher Education

Background: Endowment Fund. In 1990 the Legislature established the Exceptional Faculty Awards Program for community and technical colleges. The program is administered by the State Board for Community and Technical Colleges. When colleges and their foundations raise sufficient funds, they may apply to the state for matching funds. The combined funds form an exceptional faculty endowment that is managed by the college and its foundation. Only the interest earned on the endowment may be spent on awards. Awards support faculty development and in-service training, special projects and research, or salary bonuses to recipients.

State Match History. The Legislature originally appropriated $1.35 million for the program. Since 1998, 3.3 percent of the Education Savings Account has been directed to the program. The Education Savings Account receives unspent state general fund appropriations from each fiscal year. As of the end of Fiscal Year 2001, more than $4 million in state matching funds had been awarded. In 2002 the Legislature obligated the program fund balance of $2.5 million to partially cover the settlement costs of a lawsuit with part-time college faculty.

Program Guidelines. To receive a state match, a college and its foundation must raise at least $25,000. A college may receive no more than $100,000 in a single biennium. Matching grants are made in $25,000 increments.

Summary: The program guidelines for the community and technical college Exceptional Faculty Awards Program are changed. To receive a state match for its endowment, a college and its foundation must raise at least $10,000 rather than $25,000. The biennial limit of $100,000 in matching funds for a single college is removed from statute. Instead, the State Board for Community and Technical Colleges will establish a limit.

Expenditures from the faculty awards trust fund may be used solely for the exceptional faculty award program.

Votes on Final Passage:

House	97	0	
Senate	49	0	(Senate amended)
House	97	0	(House concurred)

Effective: July 27, 2003

SHB 1409

C 337 L 03

Making litter that is likely to injure a person or damage property "potentially dangerous litter," making improper disposal a civil infraction, and authorizing counties to abate a nuisance at the expense of the responsible party.

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

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

Background: Littering, or the illegal dumping of waste material, is unlawful in Washington. Littering regulations are enforced with penalties on a sliding scale, with the amount of litter discarded dictating the level of

penalty assessed.

Littering one cubic yard of material or more is a gross misdemeanor. Littering of less than one cubic yard, but more than one cubic foot, is a misdemeanor. Along with criminal sanctions, these violations may also require the litterer to pay a restitution of twice the actual cost to clean up the illegally dumped waste, or $50, whichever is greater.

Littering of most items in an amount of one cubic foot or less is a class 3 civil infraction. Class 3 civil infractions are subject to a fine of up to $50, plus a court assessment. Littering of a cigarette, cigar, or other tobacco product that is capable of starting a fire is a class 1 civil infraction. A person found to be in violation of that section of law is subject to a fine of up to $500, plus court assessments.

In addition to being a littering violation, it is a traffic code infraction to throw onto any highway glass bottles, glass, nails, tacks, wires, cans, or any other substance likely to injure a person, animal, or vehicle. This violation of the traffic code is subject to a civil fine of up to $171.

It is also a fineable offense for the owner of a vehicle or watercraft to fail to keep a litter bag in his or her vehicle or vessel.

Summary: The maximum penalty for improperly disposing of potentially dangerous litter is $500.

Potentially dangerous litter is defined as litter that is likely to injure a person or cause damage to a vehicle or other property, and means: (1) cigarettes, cigars, or other tobacco products that are capable of starting a fire; (2) glass; (3) containers and other products made of glass; (4) hypodermic needles and other sharp medical instruments; (5) raw human waste; and (6) nails and tacks.

It is no longer a traffic infraction to deposit substances likely to damage persons, animals, or vehicles onto a state highway, and it is no longer a fineable offense if owners of vehicles and watercraft fail to keep a litter bag in their car or boat.

Counties have the express authority to declare a nuisance by ordinance, and abate the nuisance at the owner's expense. The county may levy a special assessment on the property to reimburse the county for any expenses incurred in removing the nuisance. The assessment is a lien on the property.

Votes on Final Passage:

House	93	0	
Senate	48	0	(Senate amended)
House	97	0	(House concurred)

Effective: July 27, 2003

SHB 1416

C 20 L 03

Adjusting the time of restoration of a juvenile's driving privilege.

By House Committee on Juvenile Justice & Family Law (originally sponsored by Representatives Mielke, O'Brien, Boldt, McMahan, Schindler and Woods).

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

Background: The Department of Licensing (DOL) is required by statute to revoke a juvenile's driving privileges when the DOL receives notice from a court that the juvenile has been convicted of:

- an offense committed while armed with a firearm;
- an offense involving the purchase, possession or consumption of alcohol; or
- a violation of various drug laws.

For the juvenile's first conviction, the DOL must revoke the juvenile's driving privilege for one year or until the juvenile reaches 17, whichever period is longer. For second or subsequent convictions, the DOL must revoke the juvenile's driving privilege for two years or until the juvenile reaches 18, whichever period is longer.

The revocation is imposed without a hearing. Each conviction results in a separate period of revocation. All periods of revocation imposed that could otherwise overlap must run consecutively, and no period of revocation shall begin before the expiration of all other periods of revocation. If the DOL receives notice from a court that the juvenile's driving privilege should be reinstated, the DOL may reinstate the privilege but only after all the juvenile's periods of revocation have expired.

Summary: A juvenile's periods of revocation, which run consecutively, shall not extend beyond the juvenile's 21st birthday. The juvenile, at the age of 21, may seek reinstatement of his or her driving privilege from the DOL, and a notice from the court is not required.

Votes on Final Passage:

House	93	4
Senate	41	6

Effective: July 27, 2003

E2SHB 1418

PARTIAL VETO

C 391 L 03

Exempting drainage infrastructure from certain environmental requirements.

By House Committee on Appropriations (originally sponsored by Representatives Quall, Schoesler, Blake, Sump, Morris, Grant, Hatfield, Sehlin, Bailey and Linville).

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

Background: The Growth Management Act (GMA) requires counties and cities meeting certain population and growth criteria to plan under its major requirements. All counties and cities must satisfy certain GMA requirements, including identification and protection of critical areas and designation of natural resource lands of long-term commercial significance. "Natural resource lands" for purposes of the GMA includes agricultural, forest, and mineral resource lands.

The hydraulics code requires any obstruction across or in a stream to have a durable and effective fishway approved by the Director of the Department of Fish and Wildlife (DFW). A failure to provide, maintain, or operate such a fishway is a gross misdemeanor. After certain notice, the Director may remove an obstruction at the owner's expense or destroy it as a public nuisance.

If a person or agency wishes to construct any form of hydraulic project or perform other work that will use, divert, obstruct, or change the natural flow or bed of any of the salt or fresh waters of the state, the person must secure a hydraulic project approval (HPA) from the DFW regarding the adequacy of the means proposed for the protection of fish life. The DFW may levy a civil penalty of up to $100 per day for a violation of this requirement.

Two recent HPA decisions involved installation of self-regulating tide gates (SRTs). Skagit County Dike District No. 22 applied for a HPA to replace an existing four-foot pipe and tide gate on Dry Slough. The HPA issued by the DFW required the replacement culvert to be fitted with a SRT. The HPA conditions have been appealed to the Hydraulic Appeals Board. The other decision involved Skagit County Public Works Department's request for a HPA to disable the regulating float system on a SRT installed on Edison Slough in 2000 and operate it as a standard tide gate for 24 months. The DFW denied the request, and the Skagit County Public Works Department requested an informal review of the denial.

Summary: Department of Fish and Wildlife Requirements. Provisions addressing the Department of Fish and Wildlife's (DFW's) authority related to agricultural drainage systems are added to the hydraulics code. The term "other obstruction" as used in the fish passage requirements does not include tide gates, flood gates, and associated man-made agricultural drainage facilities that were originally installed as part of an agricultural drainage system on or before the effective date of the legislation. The term also does not apply to the repair, replacement, or improvement of these facilities. In addition, the DFW is prohibited from requiring a fishway on a tide gate, flood gate, or other associated man-made agricultural drainage facilities as a condition of hydraulic project approval (HPA) if the fishway was not originally installed as part of the drainage system before the effective date of these provisions. Further, any condition requiring a self-regulating tide gate (SRT) to achieve fish passage in an existing HPA may not be enforced.

Upon request of either an adversely affected owner of land designated as agricultural land of long-term commercial significance according to the Growth Management Act (GMA) or the associated diking and drainage district, the DFW must authorize the removal of the self-regulating function of any SRT installed because of a condition imposed by the DFW in a HPA or during implementation of fish passage requirements. The DFW must make the authorization a priority and pay for the removal within existing resources.

Salmon Intertidal Habitat Restoration Planning. The Fish and Wildlife Commission and county legislative authorities for a geographic area in which a limiting factors analysis demonstrates insufficient intertidal salmon habitat may jointly initiate a salmon intertidal habitat restoration planning process. The purpose of this process is to develop a plan addressing intertidal habitat goals in the limiting factors analysis. The Fish and Wildlife Commission and the geographic area's county legislative authorities must jointly appoint a task force with representatives of the Governor, Fish and Wildlife Commission, agricultural industry, environmental organizations, appropriate diking and drainage district, lead entity for salmon recovery, and each county in the geographic area. Representatives of the United States Environmental Protection Agency, Natural Resources Conservation Service, and fishery agencies and tribes with interests in the geographic area must be invited and encouraged to participate in any such task force. Provisions are included for operations and governance of a task force and for annual reports to the Fish and Wildlife Commission, county legislative authorities, and the appropriate lead entity for salmon recovery. A planning process and task force must be initiated as soon as practicable in Skagit County.

A task force established pursuant to this authority must: (1) review and analyze the geographic area's limiting factors analysis; (2) initiate and oversee intertidal salmon habitat studies; (3) review and analyze completed assessments; (4) develop and draft an overall plan to address intertidal salmon habitat goals; and (5) identify appropriate demonstration projects and early implementation projects for the geographic area. The plan must incorporate certain elements, including:

- an inventory of existing tide gates, with specified information on these gates;
- an assessment of the role of tide gates and intertidal fish habitat addressing numerous issues; and

- a long-term plan for intertidal salmon enhancement to meet the goals of salmon recovery and agricultural lands protection.

The state Conservation Commission must staff any task force created according to these provisions and may contract with universities, private consultants, nonprofit groups, or other entities to assist with plan development. The final intertidal salmon enhancement plan must be completed within two years after task force formation and funding. An initial salmon intertidal habitat enhancement plan for public lands meeting certain requirements must be developed by the DFW in conjunction with public land owners and the task force. This initial public lands plan must be submitted to the task force at least six months before the deadline for the final plan.

Definition. For the purposes of the hydraulics code, "tide gate" is defined as a one-way check valve that prevents the backflow of tidal water.

Votes on Final Passage:

House	97	0	
Senate	44	4	(Senate amended)
House	97	0	(House concurred)

Effective: May 20, 2003

Partial Veto Summary: The Governor vetoed the provision requiring the Department of Fish and Wildlife to authorize and pay for the removal of the self-regulating function of any SRT installed because of a condition imposed by the DFW in a HPA or during implementation of fish passage requirements upon request of either an adversely affected agricultural land owner or the associated diking and drainage district.

VETO MESSAGE ON HB 1418-S2

May 20, 2003

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

Ladies and Gentlemen:

I am returning herewith, without my approval as to section 3, Engrossed Second Substitute House Bill No. 1418 entitled:

"AN ACT Relating to drainage infrastructure;"

This bill exempts tide gates and flood gates statewide from fish passage requirements, creates a task force to develop a plan for intertidal habitat goals, and provides for a process to inventory and assess tide gates and their role in salmon recovery.

Section 3 of the bill requires the removal of the self-regulating function of any self-regulating tide gate installed because of a condition imposed by the Department of Fish and Wildlife pursuant to RCW 77.55.100, the hydraulics code, or as a requirement of fish passage pursuant to RCW 77.55.060. This section applies to any fish passage already installed on a tide gate.

I have vetoed section 3 because it applies where fish passage is already in place. It is counterproductive to our salmon recovery strategies to eliminate existing fish passage. The better approach is to use the task force process created in the bill, to analyze the role of tide gates, and habitat behind them, for salmon recovery.

I have concerns regarding the broad scope of the fish passage exemptions provided in sections 1 and 2. However, I have decided not to veto those sections because I believe the task force process in section 4 and the assessment process in section 5 will provide a scientific basis for determining the role of tide gates in particular ecosystems. The results of this study will allow us to address those tide gates that will enhance our ability to recover salmon.

My administration has strongly supported and is committed to continuing our efforts toward salmon recovery. Habitat is critical for salmon recovery for recreational and commercial fisheries. And, salmon are essential for the tribes in our state. Just as farmers rely on the land, tribes rely on the salmon. Unfortunately, we have seen an escalation in the tension between the parties on tide gates. It is my hope that in signing this bill, some of this tension will be eased so that we can begin to work together to resolve this issue.

A key approach in our salmon recovery strategy has been to focus on working with those impacted by our decisions. This was the approach used with Forest and Fish, the plan for the protection of salmon habitat in the forested environment. Forest and Fish addresses the impacts of protection decisions on forestland owners. However, this process also incorporates an aggressive adaptive management program that assesses the progress of our recovery strategies and adjusts them as we learn more.

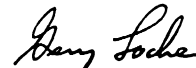
Now, as we address the interaction between salmon recovery and agriculture, I believe that the same type of approach should be used. Recovery strategies that will necessitate using agricultural land should be based on an assessment and evaluation of the habitat needs, and on opportunities to recover the species with a minimal impact on private lands. Should it be necessary to include private lands, then the landowner should have a clear understanding of the plan for recovery, the role his or her land will play in the plan, and incentives for participation in the plan. This is the approach taken in sections 4 and 5 of this bill, which I support.

Although this bill is statewide in scope and effect, the focus of discussions in the Legislature have been on the Skagit River estuary. It is my hope that the forum created in this bill will lead to positive dialogue between the parties, and most importantly, will lead to a salmon recovery strategy for the Skagit River estuary. The system of dikes and drainage in the estuary is important for farmers, but there are also opportunities for restoration of lost estuarine habitat.

For these reasons, I have vetoed section 3 of Engrossed Second Substitute House Bill No. 1418.

With the exception of section 3, Engrossed Second Substitute House Bill No. 1418 is approved.

Respectfully submitted,



Gary Locke
Governor

HB 1420
C 392 L 03

Allowing special districts to provide drainage ditches and tide gates.

By Representatives Quall, Schoesler, Eickmeyer, Sump, Grant, Kristiansen, Hunt, Blake, McDermott, Hatfield, Sehlin, Bailey and Linville.

House Committee on Agriculture & Natural Resources
Senate Committee on Agriculture

Background: The following group of special purpose districts are collectively referred to by statute as being "special districts": diking districts; drainage districts;

diking, drainage, and/or sewerage improvement districts; inter-county diking and drainage districts; diking, drainage, diking improvement and/or drainage improvement districts; and flood control districts.

Such a special district may investigate, plan, construct, acquire, repair, maintain, and operate improvements, works, projects, and facilities: necessary to prevent inundation or flooding from rivers, streams, tidal waters or other waters; or necessary to control and treat storm water, surface water, and flood water.

Summary: The facilities that such a special district may investigate, plan, construct, acquire, repair, maintain, and operate expressly include drainage ditches, tide gates, and flood gates.

Votes on Final Passage:

House	93	0
Senate	48	0

Effective: July 27, 2003

EHB 1427
C 179 L 03

Allowing confessions and other admissions to be admitted into evidence if substantial independent evidence establishes the trustworthiness of the statement.

By Representatives Lantz, Delvin, O'Brien, Boldt, Blake, Hankins, Fromhold, Cody, Pearson, Mastin, Hunt, Roach, Moeller, Kagi, Benson, Rockefeller, McMahan and McDonald.

House Committee on Judiciary
Senate Committee on Judiciary

Background: In a criminal proceeding, the prosecution has to prove that a crime has been committed and that the particular defendant charged is responsible for committing the crime. The first requirement, proving that a crime has been committed, is often referred to as the "corpus delicti," which literally means "the body of the crime." For example, to establish the corpus delicti in a murder case, the prosecution has to show that a person died and that the person died by criminal means.

Long ago, courts in the United States established a common law doctrine known as the corpus delicti doctrine. This doctrine provides that the prosecution in a criminal case may not establish the corpus delicti solely by the confession or admission of the defendant. The corpus delicti doctrine provides that a confession or admission may only be admitted if there is independent, corroborating evidence of the corpus delicti.

The corpus delicti doctrine developed as a result of distrust of the reliability of confessions and concern that juries are likely to accept confessions uncritically. The distrust of the reliability of confessions was founded on a number of concerns, including the possibilities that the confession was: elicited by coercion or force; misreported or misconstrued; based on a mistaken perception of the facts or law; or falsely given by a mentally disturbed individual.

The level of independent, corroborative evidence that is required under the corpus delicti doctrine varies widely between the federal courts and many state courts. Washington follows the traditional corpus delicti doctrine which provides that the independent, corroborative evidence must, by itself, establish a prima facie case of the corpus delicti.

In 1954 the United States Supreme Court, in *Opper v. United States,* adopted what is referred to as the "trustworthiness" doctrine. The "trustworthiness" doctrine provides that a defendant's confession or admission may be admitted to establish the corpus delicti if there is substantial independent evidence that tends to establish the trustworthiness of the confession or admission. The independent evidence does not need to establish, by itself, the corpus delicti. It need only support the essential facts of the confession or admission sufficiently to justify a jury inference that the confession or admission is true.

The corpus delicti doctrine has been criticized by legal scholars and commentators on a number of grounds, including that: it has outlived its usefulness now that many other safeguards exist to protect against unreliable confessions; and it places an unrealistic burden on the prosecution since modern criminal law has made crimes more numerous and complex. A majority of states continue to follow some form of the traditional corpus delicti doctrine that a confession or admission may not be admitted unless there is independent evidence that, by itself, establishes the corpus delicti. However, many states have adopted the federal "trustworthiness" rule of corpus delicti.

A person may be a witness in a judicial proceeding only if the person is competent to testify. Competency is based on the person's mental capacity to receive an accurate impression of the facts about which he or she is examined and accurately remember and relate those facts truly.

Summary: The traditional corpus delicti rule is changed to a trustworthiness rule and standards for evaluating trustworthiness are provided.

In a criminal or juvenile offense proceeding where independent proof of the corpus delicti is not present, a confession or statement of a defendant is admissible if the victim of the crime is dead or incompetent to testify and there is substantial independent evidence that tends to establish the trustworthiness of the confession or statement.

In determining whether the defendant's confession or statement is trustworthy, the court must consider:

- whether there is evidence corroborating or contradicting facts in the statement, including the elements of the offense;

- the character of the witness reporting the statement and the number of witnesses to the statement;
- whether a record was made of the statement, and if so the timing of the making of the record; and
- the relationship between the witness and the defendant.

The court must issue a written order when finding that a statement is sufficiently trustworthy to be admitted.

Votes on Final Passage:

House	96	1
Senate	49	0

Effective: July 27, 2003

HB 1430

FULL VETO

Requiring state agencies to prepare housing impact statements.

By Representatives Miloscia, Armstrong, Haigh and Benson.

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

Background: The Regulatory Fairness Act was enacted in 1994 to reduce the disproportionate impact of state administrative rules on small business. As part of the rule-making process, an agency must prepare a small business economic impact statement (SBEIS) if: 1) the rule would impose more than minor costs on businesses in an industry; or 2) the Joint Administrative Rules Review Committee requests the agency to do so.

As part of the SBEIS, an agency must analyze the compliance costs of the rule including lost revenue or sales and increased labor, equipment, supply, or administrative costs. The SBEIS must determine whether the rule has a disproportionate impact on small businesses. If the rule has such an impact, the agency must, where legal and feasible, reduce the costs on small businesses. Such steps may include:

1) reducing, modifying, or eliminating substantive regulatory requirements;
2) simplifying, reducing, or eliminating recordkeeping and reporting requirements;
3) reducing the frequency of inspections;
4) delaying compliance timetables;
5) reducing or modifying fine schedules for noncompliance; or
6) using other mitigation techniques.

A SBEIS must also include a description of the reporting, record keeping, and other compliance requirements of the proposed rule and the kinds of professional services that a small business is likely to need in order to comply with the rule. The agency must analyze the costs of compliance, including costs of equipment, supplies, labor, and increased administrative costs, and must consider whether compliance will cause businesses to lose sales or revenue.

The agency must include in the SBEIS the steps taken to reduce costs and involve small businesses in the development of the rule. It also must include a list of industries required to comply with the rule.

Summary: The intent section of the Regulatory Fairness Act is expanded to address the disproportionate impact that administrative rules have on those providing housing. The new language also states that most providers of housing are small businesses and that the disproportionate impact upon them reduces the availability of housing.

The definition of housing includes residential housing that is rented or owned and a provider of housing is a business engaged in the development and building of housing. A significant adverse impact on housing is anything that would increase the cost of housing or a component of housing by 5 percent or more. (A component of housing is not defined, but could include costs imposed on landlords, renters, developers, homeowners, or home buyers.)

Agencies are required to consider if a proposed rule will result in a significant adverse impact on the affordability of housing. If it is determined that the proposed rule will have a significant adverse impact, agencies must prepare a housing impact statement (HIS) similar to the process used for a SBEIS. If a HIS is required, it may be included as a component of a SBEIS.

Based on the extent of the significant adverse impact on housing, agencies are required, where legal and feasible, to reduce the impact on housing affordability. In preparing a HIS, an agency must analyze the cost of compliance for housing providers of all sizes. Financing costs are considered in this first stage.

In contrast to the SBEIS process, in the HIS process an agency must determine whether the proposed rule disproportionately impacts housing affordability. To determine the impact on affordability, the agency must compare the rule's cost to housing providers of all sizes with its cost to the largest 10 percent of providers.

The Department of Community, Trade, and Economic Development will consult with the Governor's Housing Advisory Board to develop guidelines for the preparation of housing impact statements.

Votes on Final Passage:

House	95	0
Senate	33	16

VETO MESSAGE ON HB 1430

May 20, 2003

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, House Bill No. 1430 entitled:

"AN ACT Relating to housing;"

This bill would direct agencies to prepare Housing Impact Statements as part of their Small Business Economic Impact Statements when they are considering rules that would affect the costs of housing, or any component of housing.

While this bill acknowledges a real problem - the availability of affordable housing in Washington - it will not contribute to solving that problem. Rather, this legislation will add redundant and unnecessary paperwork to the already lengthy, costly and complex work of state agencies as they develop rules to carry out legislative mandates, thereby increasing bureaucracy and inefficiency.

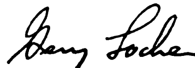
Under existing law, agencies are already required to develop Small Business Economic Impact Statements that describe the effects of proposed rules on businesses employing 50 people or less. If their assessments indicate a rule will have a disproportionate impact on small versus large businesses, agencies must find ways to mitigate those impacts by reducing or eliminating requirements, reducing reporting or inspection frequency, reducing fines, or delaying compliance. These impact statements already cover housing providers as a type of small business.

Under this bill, agencies would have had to prepare a specialized assessment of the impact of their rules not just on the cost of housing, but also any component of housing. As a result, agencies would have had to address impacts on the price of nails, lumber, plumbing, lighting, and possibly even building lots. In reality, housing costs are affected by a myriad of factors, from local economic conditions to zoning ordinances, and national economic policies such as import tariffs and interest rates. It would be virtually impossible to isolate the effect of any individual state regulation on such costs. As a result, this bill is likely to result in increased controversies about the rule- making process, rather than any decrease in the cost of housing.

In addition to generating conflicts over newly proposed rules, this bill also requires agencies, in developing their annual rule review calendar, to assess whether any existing rule should be continued or whether it now must be amended or rescinded because of its impact on housing or any component of housing. This is likely to lead to further conflicts about agencies' calculations and conclusions about the effects of rules that may have been in place for many years. As we ask state government to become more efficient, we should not be burdening them with tasks that foster inefficiency.

For these reasons, I have vetoed House Bill No. 1430 in its entirety.

Respectfully submitted,



Gary Locke
Governor

HB 1435
C 14 L 03

Concerning the fruit and vegetable district fund.

By Representatives Armstrong, Linville, Schoesler, McDermott, Hinkle, Wood, Newhouse, Grant, Quall, Holmquist and Condotta.

House Committee on Agriculture & Natural Resources
Senate Committee on Agriculture

Background: State law authorizes the Director of Agriculture (Director) to establish a fee-for-service program to provide, upon request, services to growers and other interested parties for special inspections and certifications, identifications, diagnostic services, and activities needed to facilitate the movement or sale of plant products or bees and bee products. Monies collected from providing these services are deposited in the Plant Pest Account in the Agricultural Local Fund.

Other laws require the Director to establish standards and grades for apples, apricots, Italian prunes, peaches, sweet cherries, pears, potatoes and asparagus and allow the Director to establish them for other fruits and vegetables. For the purposes of these laws, the state is divided into not less that two fruit and vegetable inspection districts. The fees collected for these services in an inspection district are deposited in a district account within the Fruit and Vegetable Inspection Account, which is used as a revolving fund to carry out services within the district.

In 1997 legislation authorized a transfer of $200,000 in funds from District Number Two, as it was then composed, to the Plant Pest Account for activities related to apple maggot control. Funds from this transfer that are unexpended by June 30, 2003, are to be returned. The three districts that were in existence in 1997 were consolidated into two districts in 2002 in response to legislation enacted that year. The legislation also required that the transferred monies be returned to the district account for the district containing Yakima County. Yakima County was in District Number Two before the consolidation and remains in District Number Two following it.

Summary: The date by which monies transferred from the district fund of District Number Two must be expended from the Plant Pest Account for apple maggot control activities is extended by two years to June 30, 2005.

Votes on Final Passage:

House	96	0
Senate	43	0

Effective: June 30, 2003

SHB 1442
C 348 L 03

Revising provisions for sale of timeshares.

By House Committee on Commerce & Labor (originally sponsored by Representatives Wood and Chandler).

House Committee on Commerce & Labor
Senate Committee on Financial Services, Insurance & Housing

Background: Sales of Timeshares. A timeshare interest is a right to occupy a unit of real property during three or more separate periods over a term of at least three years. A timeshare interest reservation is a revocable right to purchase a timeshare interest in a project that has not been completed. A promoter is any person directly or indirectly instrumental in organizing a timeshare offering.

The Department of Licensing, Business and Professions Division (Department) regulates the advertisement and sale of timeshares. That regulation includes: (1) registration with the Department of a timeshare offering prior to advertising or solicitation of a timeshare project; (2) registration with the Department of a timeshare interest reservation prior to the sale of any timeshare interest reservation; and (3) the promoter's disclosure of information necessary to fully inform a prospective purchaser prior to the sale of a timeshare.

Timeshare promoters may sell both timeshare interests and timeshare interest reservations. In order to sell a timeshare interest, the project must be complete, the offering registered with the Department, and the promoter's disclosure filed. In order to sell timeshare interest reservations, the project need not be complete, but the offering must be registered with the Department and the promoter's disclosure filed. Timeshare interests may be sold either as an interest in one specific unit (a fee simple interest), or as an opportunity to use one of several different units during a period of time.

Timeshare Offering Registration. Prior to advertising, offering, or selling a timeshare interest or timeshare interest reservation, the offering must be registered with the Department. The application must disclose detailed information on the project and the cost of the units.

Timeshare Disclosure Document. A disclosure document must be filed with the timeshare offering registration. In this document, promoters must provide information on their business, their background, the timeshare management, and the sales contract.

Timeshare Interest Reservation. Timeshare promoters may pre-sell a revocable right to purchase a timeshare which has not been completed. A promoter may market and advertise a timeshare project and may accept a reservation deposit from a prospective purchaser for up to 20 percent of the projected purchase price of the timeshare interest.

Prior to offering a timeshare interest reservation, the offering must be registered with the Department and the promoter's disclosure filed. The promoter must provide a registered disclosure document to each prospective purchaser. Once the timeshare project is completed, the promoter must submit an updated registration and disclosure for Department approval.

Summary: Promoters may sell timeshare interests in incomplete projects under certain circumstances. Projects must be completed within two years of the date of purchase. Any incomplete projects offered for sale must be registered with the Department using existing procedures.

Promotional materials for incomplete projects must disclose that the project is still under construction and the last possible estimated date of completion for the project.

Promoters must protect purchasers' funds by posting a bond or depositing the funds into an escrow account. The requirements for escrow accounts are established.

Purchasers may request a full refund if the project is not completed either within two years of purchase or on the estimated date of completion, whichever is earlier. Purchasers may also receive a refund if the completed project is materially and adversely different from what was promised at the time of purchase.

Votes on Final Passage:

House	93	0	
Senate	45	0	(Senate amended)
House	97	0	(House concurred)

Effective: July 27, 2003

HB 1444
C 277 L 03

Protecting proprietary or confidential information acquired through state health services purchasing.

By Representatives Haigh, Eickmeyer, Clibborn, Dickerson, Rockefeller and Morrell.

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

Background: Under the Open Public Meetings Act of 1971 (Act), all meetings of a governing board of a public agency are open to the public. Actions taken at meetings that do not comply with the Act are null and void. Governing boards may hold executive sessions out of the public eye for certain purposes, such as consideration of matters of national security; consideration of real estate matters when public knowledge may result in an increased price of a property; or, in the case of the State Investment Board, consideration of financial and commercial information relating to the public trust or retirement funds when knowledge of the discussion would result in a loss of funds.

The open public records law was approved by state voters in 1972 as part of Initiative Measure No. 276. All public records of state agencies and local governments are open to public inspection and copying unless expressly excluded by law. This disclosure requirement is liberally construed and any exception is narrowly construed.

A person's right to privacy is invaded or violated only if disclosure of information about the person: 1) is highly offensive to a reasonable person, and 2) is not of legitimate concern to the public. Beyond that, only those records expressly identified are considered exempt from disclosure.

The Health Care Authority (Authority) is responsible for studying all state-purchased health care, alternative health care delivery systems, and strategies for the procurement of health care services, and for making recommendations aimed at minimizing the financial burden which health care poses on the state. The Authority is also expected to implement state initiatives, joint purchasing strategies, cost-control strategies, and techniques for efficient administration that have potential application to all state-purchased health services.

The Authority may not disclose 1) proprietary data, trade secrets, and other information relating to a bid, or 2) actuarial formulas, statistics, cost and utilization data, or other proprietary information submitted at the request of the Authority or the Public Employees' Benefits Board (Board) by a contracting insurer, health care service contractor, health maintenance organization, or vendor. Further, the Board may hold an executive session when discussing this confidential information.

Summary: The Open Public Meetings Act is changed to allow an executive session to be called when a governing board considers proprietary or confidential nonpublished information related to the development, acquisition, or implementation of state purchased health care services. In addition to the Public Employees Benefits Board, a technical review committee created to facilitate the development, acquisition, or implementation of state purchased health care may hold an executive session in accordance with the Open Public Meetings Act.

The exemption from public disclosure is broadened to include proprietary data, trade secrets, or other information solicited for the development, acquisition, or implementation of state purchased health care services, as long as it is requested to be confidential by the respondent. All exempted information remains exempt from public disclosure upon transfer to another state purchased health care program or to a committee created to facilitate the development, acquisition, or implementation of state purchased health care.

Proprietary data, trade secrets, or other information relating to a vendor's unique methods of conducting business, unique product or service data, or price determinations or rates when submitted to the Department of Social and Health Services for the development, acquisition, or implementation of state purchased health care is also exempt from public disclosure.

Votes on Final Passage:

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

Effective: July 27, 2003

SHB 1445

C 21 L 03

Regulating motor vehicle manufacturer and dealer relationships.

By House Committee on Commerce & Labor (originally sponsored by Representatives Conway, Chandler, Kenney, Fromhold and Clements).

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

Background: Automobile manufacturers maintain a franchise relationship with their dealers. State law and the franchise agreement outline the responsibilities of each party. Generally the law dictates when a manufacturer may own a franchise and when manufacturers may terminate a dealer's franchise, and prohibits manufacturers from discriminating between dealerships.

Auto manufacturers' franchise agreements generally require manufacturers to approve any prospective buyer of a dealership. The law allows manufacturers to establish special provisions in franchise agreements that give preference in the sale of dealerships to family members of current owners, to dealership management employees, and to individuals from groups who are generally underrepresented among existing dealers (a dealer diversity program).

Franchise agreements require dealers who perform warranty work to submit claims to manufacturers for reimbursement of the cost of the work.

Frequently manufacturers offer incentive programs like additional discounts or money back to consumers. Dealers give these discounts or money directly to the consumer and then file a claim for reimbursement with the manufacturer under the provisions of a franchise agreement.

Summary: Manufacturers may own an interest in a dealership for up to two years when the manufacturer is assisting a new owner or a person in a dealer ownership diversity program to establish a dealership, and that person will make a substantial capital investment in the dealership within those two years.

A manufacturer may not cancel or fail to renew a dealer's franchise because the dealer owns or attempts to buy another dealership which sells another brand of

automobiles, or because the dealer sells two or more brands of automobiles from the same dealership.

Manufacturers may include a "right of first refusal" in a franchise agreement. If a manufacturer elects to assert the right, the manufacturer must notify the dealer within 45 days of the dealer receiving an offer to purchase the dealership. The manufacturer must agree on terms and conditions at least as favorable as those in the offer the dealer received, and must reimburse the dealer and prospective purchaser for any costs incurred. A manufacturer may not assert the right of first refusal if it has already approved the buyer, or if the buyer is a family member of the current owner or a management employee of the dealership. A stepchild is included in the definition of a family member.

Dealers must submit any claims for reimbursement for warranty work to the manufacturer within one year of the date the work was performed. A dealer may submit a claim for an incentive program reimbursement for up to one year after the incentive program ends. The manufacturer must pay an incentive program claim within 30 days of receiving it, but may audit and re-adjust past incentive claims for up to one year.

Washington is established as the venue for any franchise agreement legal actions.

Votes on Final Passage:

House	91	0
Senate	47	0

Effective: July 27, 2003

SHB 1455

C 287 L 03

Licensing and regulating money transmission and currency exchange.

By House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Santos, Kenney, Benson, Schual-Berke, Quall, O'Brien, Cooper, Berkey, Dunshee, Haigh, Morris, Sullivan, Skinner, Miloscia, Veloria, Delvin, Hatfield, Simpson and Wallace; by request of Department of Financial Institutions).

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

Background: Overview of the Money Transmitter Industry. Since the events of September 11, 2001, the business of international money transmission has received a great deal of attention from government regulators, law enforcement authorities, and the media. Although banks are responsible for the vast majority of financial transactions involving money transmission, it is the services provided by non-bank financial institutions that have come under increased scrutiny. A money transmitter generally is a non-bank financial institution that provide various services relating to the transfer of funds from one individual or institution to another. Such funds may be transferred domestically or internationally, and the transfer can be accomplished by a wide variety of methods, including money order, check, e-mail, facsimile, telephone, or wire transfer.

In the United States, the use of money transmission services has grown dramatically during the last decade, due in large part to increasing reliance on such services by members of various ethnic and immigrant groups in order to conduct international money transfers. Studies indicate that the growth of the industry has been driven by recent immigrants transmitting funds back to their countries of origin, usually to family members.

As of 1996, there were approximately 43,000 money transmission outlets in the United States. Approximately 34,830 (81 percent) of these outlets were operated by the two dominant players in the industry, Western Union and MoneyGram. Of the 8,000 outlets that were unaffiliated with the two dominant companies, approximately 6,000 were small, community-based businesses with ties to ethnic communities. These businesses consist of small outlets managed either as private businesses operating their own small networks, or as one-person agencies that conduct transactions on behalf of a money transmitter.

Federal Regulation. The federal statutes and rules pertaining to money transmission businesses are narrow in scope and are designed to address law enforcement concerns relating to money laundering and national security. Most of the pertinent federal statutes are contained in the Bank Secrecy Act and the Money Laundering Suppression Act, as amended in October 2001 by the Patriot Act. These federal acts impose registration and reporting requirements on money transmitters, but do not comprehensively regulate the industry.

Regulation by the States. Although there are several federal regulations that are applicable to money transmitters, the federal government has made no attempt to impose a comprehensive, nationwide regulatory framework on the industry. To date, approximately 35 states require licensing and have enacted comprehensive regulatory frameworks designed to govern their business activities. All these states require that licensees pay licensing fees, obtain a surety bond, and maintain a minimum net worth as prescribed by statute. Washington does not require that money transmitters be licensed and does not have a statutory framework for the regulation of such businesses.

Summary: I. Introduction

The Department of Financial Institutions (DFI) is granted broad authority regarding the licensing and regulation of money transmission and currency exchange businesses, which are collectively referred to as money services. The statutory framework established under the

act contains comprehensive provisions governing licensing, solvency requirements, business practices, state regulatory powers, administrative sanctions, and criminal penalties.

The act creates parallel statutory schemes for the regulation of those money transmission and currency exchange businesses not governed by the existing framework of state and federal regulations applicable to more traditional, commercial financial institutions. Traditional financial institutions are largely exempted from coverage under the bill, provided they are already subject to regulation under existing state or federal law.

The provisions of the bill apply only to those engaged in the business of money transmission or currency exchange, as well as others involved in the business who are considered responsible individual or authorized delegate. Some entities that would otherwise be subject to regulation under the act, are specifically exempted.

II. Key Definitions

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. The mere provision of online or telecommunications services is exempted from the definition. A money transmitter is one who engages in money transmission.

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. A currency exchanger is one who engages in currency exchange.

Money services are money transmission or currency exchange services.

A responsible individual is an employee of a licensed money transmitter or currency exchanger who has principal managerial authority over the conduct of business in this state.

An authorized delegate is any individual that a licensed money transmitter or currency exchanger designates to engage in money transmission or currency exchange.

III. Exempted Entities

The following entities are specifically exempted from the regulatory requirements of the act, whether or not they might otherwise fall under the definition of money transmitter or currency exchanger:

- governmental entities and agents, and those contracted to provide money services on behalf of governmental entities;
- the United States Postal Service;
- financial institutions and corporations organized under specified federal acts;
- federally regulated boards of trade;
- federally registered futures commission merchants;
- operators of payment systems that provide services to other exempted entities, with respect to wire transfers, credit cards, debit cards, etc.;
- registered securities broker-dealers;
- state licensed insurance companies, title insurance companies, or escrow agents; and
- persons involved in the issuance, sale, use, redemption, or exchange of stored value or payment instruments.

IV. Licensing Requirements for Money Services Businesses

Generally. Money transmitters and currency exchangers must meet licensing requirements that are largely identical. However, money transmitters are subject to bonding and net worth requirements not applicable to currency exchangers. Also, currency exchangers need not be licensed if total business revenues obtained from currency exchange do not exceed 5 percent.

License Application. A person applying for a license must file an application with the DFI that contains specified information, including:

- a 10 year employment history of the designated responsible individual;
- fingerprints of the responsible individual, upon request by the Director of the DFI (Director);
- a list of any criminal convictions sustained by the responsible individual during the preceding 10 years;
- documentation that the proposed responsible individual either is a citizen of the United States or has the necessary legal work status as an immigrant;
- a list of the authorized delegates;
- a description of the source of the money or credit to be used in conducting the business;
- a description of any licensing problems in other states involving the responsible individual;
- if the applicant is a business entity, extensive information about the entity, its history, financial condition, structure, personnel, etc.; and
- any other information required by the DFI pursuant to administrative rule.

Investigation by the Director. Prior to issuing a license, the Director must conduct an investigation of the applicant which leads to a finding that it is in the best interests of the public to allow the applicant to engage in the money services business. The investigation must include the following steps:

- an examination of the applicant's background, financial profile, experience, competence, character and general fitness; and
- a determination that neither the applicant nor its proposed employees are listed by the federal government as persons who pose a potential threat of committing terrorist acts or financing terrorist acts.

V. Bonding and Financial Requirements for Money Transmitters

Bonding Requirements. Money transmitters are required to maintain a surety bond, or other acceptable security, in the amount of at least $10,000 but not exceeding $50,000 (the exact amount to be determined by rule), plus an additional $10,000 per business outlet, up to a maximum of $500,000. The Director can increase the maximum required amount to $1 million should it be deemed necessary in order to protect the public interest. The purpose of the bond is to protect the interests of claimants against the business in the event they suffer losses due to a violation of law or rule.

Maintenance of Investment Portfolio. Money transmitters are required to maintain a portfolio of permissible investments that are equal to the aggregate value of all outstanding money transmissions. The maintenance of these investments by a money transmitter is subject to extensive regulation by the DFI to ensure that the interests of the public are protected in the event of the insolvency of the business.

Net Worth. Money transmitters are required to maintain a net worth of at least $10,000 or face regulatory action by the DFI.

VI. General Business Regulations

Delivery, Receipts, and Refunds. Money transmitters must comply with the following requirements regarding customer service:

- money must be transmitted to the designated recipient within 10 days of receipt;
- customers must be provided with a receipt showing the details of the transaction, including a breakdown of all fees; and
- subject to certain conditions, refunds must be provided within 10 days of receipt of a written request from a customer.

Exchange Rate Disclosures. The receipt obtained by a customer pursuant to an international money transmission transaction must include specified disclosures regarding the exchange rate.

Money Laundering and Governmental Reporting Requirements. A money services provider must comply with all laws pertaining to money laundering, as well as federal record keeping and suspicious transaction-reporting requirements.

Liability of Licensee. A licensee is liable for violations of the act committed by employees. A licensee's willful misconduct in supervising an employee, or willful avoidance of knowledge of an employee's activities, can result in administrative sanctions.

Prohibited Practices. It is a violation of the act for a money services provider or an employee to engage in specified prohibited practices, including:

- engaging in trade practices that are unfair or deceptive, including bait and switch advertising or sales practices;
- committing fraud or misrepresentation;
- creating false or deceptive documents or records; and
- failing to file reports or records required by law.

VII. Regulatory Powers of the DFI

Examinations by the Director. The Director is granted broad authority to conduct examinations and investigations of money service providers licensed under the act. This authority allows the Director to:

- examine all business records, including those pertaining to accounts, finances, and business practices;
- have free access to the offices and places of business of the licensee;
- compel the attendance and conduct examinations under oath of persons with knowledge relevant to the investigation;
- compel the production of records and documents; and
- when necessary, issue subpoenas or subpoenas duces tecum to obtain information.

Regulatory Actions against Licensees and Authorized Delegates. The Director is granted authority to take a wide range of regulatory actions for violations of the act or administrative rules, as well as: violations of criminal law; links to terrorist organizations or terrorist financing; fraud or misrepresentation; insolvency; or unsound business practices. Subject to specific conditions, the Director may:

- issue a temporary or permanent order to cease and desist doing business;
- suspend, revoke, or condition a license;
- place licensee in receivership;
- impose civil penalties;
- compel payment of restitution or require other curative measures; or
- remove an employee or officer from participation in the business.

Community Outreach by Director. The Director is required to conduct outreach to small businesses and immigrant communities in order to:

- enhance awareness of state and federal laws governing money services businesses;
- increase compliance with pertinent laws and regulations; and
- provide technical assistance to businesses subject to the act.

VIII. Criminal Penalties

Several new criminal offenses are created for violations of the act:

- false statements, material misrepresentations, or deliberate omissions in records required under the act constitute a class C felony; and
- depending upon the circumstances, engaging in a money services business without a license can be either a misdemeanor or a gross misdemeanor.

Votes on Final Passage:

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

Effective: October 1, 2003

HB 1460

C 68 L 03

Creating a Washington state day of civil liberties remembrance.

By Representatives Pettigrew, Santos, Sullivan, Chase, Linville, Schual-Berke, Veloria, Rockefeller, Conway, Darneille, Wallace, Upthegrove, Kenney and McDermott.

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

Background: Following the Japanese attack on Pearl Harbor, President Franklin D. Roosevelt issued Executive Order 9066 in 1942. This order authorized the military to designate military areas, and remove any person considered a danger. On March 2, 1942, Lt. General John L. DeWitt, West Coast Commander U.S. Army, issued Public Proclamation No. 1, which designated the entire West coast a restricted military area. The Army issued the first Civilian Exclusion Order for Japanese Americans on Bainbridge Island on March 24, 1942. By June 1942, more than 110,000 Japanese had been placed in temporary assembly centers. Over 7,000 residents from Bellevue, Renton, Tukwila, Kent, Auburn, and Seattle were sent to Camp Harmony, a temporary assembly center on the grounds of the Puyallup Fair. From the temporary assembly centers, Japanese Americans were moved to 10 concentration camps scattered throughout the west. The Japanese Americans returned home at the end of World War II. In 1988 HR 442 was signed into law by President Ronald Reagan, which provided reparations for surviving internees. Beginning in 1990, $20,000 in redress payments was sent to each eligible Japanese American.

Summary: February 19 is recognized as Civil Liberties Day of Remembrance, but is not considered a legal holiday.

Votes on Final Passage:

House	96	0
Senate	49	0

Effective: July 27, 2003

ESHB 1462

C 69 L 03

Prohibiting local governments from imposing business and occupation tax on intellectual property.

By House Committee on Finance (originally sponsored by Representatives Morris, Cairnes, Gombosky, Ruderman, Nixon, Ericksen, Miloscia, Anderson, Wallace, Benson, Newhouse, Tom, Chandler, Orcutt, Woods, McMahan, Talcott and Campbell).

House Committee on Finance
Senate Committee on Ways & Means

Background: Thirty-seven cities impose business and occupation (B&O) taxes on the gross receipts of activities conducted by businesses without any deduction for the costs of doing business. The Legislature limited city B&O taxes to a maximum rate of 0.2 percent in 1982, but higher rates are allowed if approved by the voters in the city, or if a higher rate was in effect prior to January 1, 1982. Many city B&O taxes include more than one rate classification and common classifications include manufacturing, wholesaling, retailing, and services. Cities imposing a B&O tax for the first time after April 22, 1983, and cities increasing tax rates, must provide for a referendum procedure to apply to the ordinance imposing or increasing the tax.

Like a number of other municipalities with B&O taxes, the City of Seattle (City) imposes its B&O tax on several classifications, including manufacturing. As an aspect of its tax on manufacturing, the City also taxes software development. In 1999 the King County Superior Court, ruling in favor of a software developer, found that the City's definitions of "manufacturing" and "manufacturer" were inconsistent and that software development was not taxable under the definition of manufacturing. In response, the City modified its definitions, and in 2001, the City Council repealed its existing B&O ordinance entirely and adopted a revised version. The revised ordinance provides that manufacturing includes "persons engaged in the business of developing, or producing custom software or of customizing canned software." The revised ordinance also includes a partial credit against the tax for certain research and development expenditures conducted by high-technology industries, including software developers.

Intellectual property is a form of intangible property in which the product represents the manifestation of creative activity, such as in the case of software programs, music, or product designs. The activity of creating intellectual property may involve research, development of ideas, and other inventive processes. The use of intellectual property is typically allowed through license, and the creator of such property may receive royalties or other compensation for licensing the product.

Summary: Cities are prohibited from imposing a gross receipts tax on intellectual property creating activities, including research, development, authorship, creation, or other inventive activity, unless a city imposed such a tax as of January 1, 2002. In the latter case, a city is prohibited from imposing this tax beginning January 1, 2004.

Cities may impose gross receipts taxes on royalty income, except for royalty income from casual or isolated sales, grants, capital contributions, donations, or endowments. The taxes may only be imposed on taxpayers whose principal business location is within the city imposing the tax.

Cities are not prohibited from imposing gross receipts taxes on gross income derived from manufacturing, sales, or services, even if the processes might have involved intellectual property creating activity. Intellectual property creating activity may not be considered a manufacturing activity, however.

Votes on Final Passage:

House	96	0
Senate	41	4

Effective: July 27, 2003

ESHB 1463
C 198 L 03

Allowing advertising on bus shelters.

By House Committee on Transportation (originally sponsored by Representatives Sullivan, Ericksen, Simpson, Jarrett and Anderson).

House Committee on Transportation
Senate Committee on Highways & Transportation

Background: Local transit agencies sometimes seek private partners for assistance in building and maintaining bus shelters. The private partners are allowed to post advertising in exchange for this financial assistance. This most often takes place within city limits, where municipalities have authority to allow advertising shelters within public rights of way. However, in unincorporated county areas, the law prohibits the placement of advertising along state highway right of way, which thus makes the private partner financing approach an unviable option for building and maintaining bus shelters in those areas.

Additionally, if a private entity wishes to utilize land held by the Washington State Department of Transportation (WSDOT), the WSDOT is authorized to rent or lease the land or the air space above or below the land. Because renting or leasing WSDOT land would carry a cost for the transit agencies, it has further inhibited their ability to build new bus shelters at these locations.

Summary: Local transit agencies are authorized to display commercial advertising on bus shelters located within a state highway right of way. The WSDOT may lease the state right of way to local transit agencies for this purpose, unless there are significant safety concerns regarding the placement of the advertising.

Advertisements placed on the bus shelters may not exceed 24 square feet on each side of the panel. Panels may not be placed on the roof of the shelter or on the forward side, facing oncoming traffic.

In leasing the state right of way for the placement of bus shelters displaying advertisements, the WDOT may charge the transit agency only for the commercial space.

Votes on Final Passage:

House	86	9
Senate	44	2

Effective: July 27, 2003

ESHB 1466
C 22 L 03

Promoting natural science, wildlife, and environmental education.

By House Committee on Education (originally sponsored by Representatives Quall, Tom, Haigh, Talcott, McDermott, Anderson, Linville, Rockefeller, Ericksen, Upthegrove, Jarrett, Dunshee, Nixon, Kessler, Ruderman, Eickmeyer, Cox, Lovick, Hunt, Grant, Woods, Wallace, Pflug, Kenney and Fromhold).

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

Background: Various private entities such as Point Defiance Zoo and Aquarium, the Pacific Science Center, the Washington Audubon Society, and Woodland Park Zoo have educational outreach programs available to schools. These programs are designed to help children learn about science, wildlife, or the environment. The programs support the development of materials for in-class curricula, field trips and out-of-school opportunities, and teacher training.

Under Washington law, all schools give instruction in science with special reference to the environment. In addition, the Washington Administrative Code requires that instruction about conservation, natural resources and the environment be provided in an interdisciplinary manner at all grade levels.

Summary: The Washington Natural Science, Wildlife, and Environmental Education Partnership Account (Account) is established. In addition, the Natural Science, Wildlife, and Environmental Education Grant Program (Grant Program) is created. The purpose of the Account and of the Grant Program is to promote proven and innovative natural science, wildlife, and environmental education programs that are fully aligned with the state's essential academic learning requirements (EALRs). The Account consists of funds provided by

the Legislature or other sources. An appropriation is not required for an expenditure from the Account. The Grant Program is subject to the availability of funds in the Account.

Money from the Account is disbursed through a competitive grant-making process to nonprofit organizations that are tax exempt and can provide matching funds or in-kind services. The criteria for the grants is established by the Office of Superintendent of Public Instruction (OSPI) and any expenditures from the Account must be authorized by the OSPI or its designee.

The Grant Program may make disbursements to programs involving forestry and agriculture as well as the environment, wildlife and natural science. The criteria must be based on compliance with the EALRs and include instruction on renewable resources, responsible use of resources and conservation. Programs must use methods that encourage critical thinking and meet at least one of four additional listed features. The OSPI will involve a cross-section of stakeholder groups to develop socially, economically, and environmentally balanced funding criteria. A list of non-exclusive, eligible uses for the grants is included.

Grants may not be used for any partisan or political activities.

Votes on Final Passage:

House	77	19
Senate	48	0

Effective: July 27, 2003

SHB 1470
C 411 L 03

Expanding "residency" for purposes of attending Washington public schools.

By House Committee on Education (originally sponsored by Representatives Cox, Haigh, Schoesler, Sump, Quall and Santos).

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

Background: Any school-aged child who lives within the borders of Washington may attend the state's public schools without paying tuition. This includes children living on military reservations, American Indian lands, national parks, and national forest lands.

Students who live in other states may also attend school in Washington under a law that permits out-of-state students to enroll in state schools under a reciprocity agreement. The enrollment is limited to students from states that permit reciprocity exchanges. It is also limited to enrollment in a Washington school district that borders the out-of-state school district in which the student lives. Under the reciprocity exchanges, the school district that receives the out-of-state student must charge the student tuition. The tuition must equal the cost to the district of educating the student. The district is not permitted to receive any state or federal funds for these students.

Summary: Any school-aged child who lives in a home that is located in Idaho, but that has a Washington address assigned to the home by the United States Postal Service, may attend a school in the nearest Washington school district without paying tuition. The child will be considered a resident student for state funding purposes.

Votes on Final Passage:

House	96	0	
Senate	46	1	(Senate amended)
House	98	0	(House concurred)

Effective: July 27, 2003

HB 1473
C 238 L 03

Specifying when vacancies in certain offices may be filled.

By Representatives Hudgins, Nixon, Flannigan, Pettigrew, Clibborn, Kenney, Haigh, Hinkle, Bailey, Morrell and Upthegrove.

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

Background: If a legislative or partisan county office is vacated, the county legislative body must appoint someone to serve until the successor is elected at the next general election. Once the election results are certified, the successor must take office immediately.

Summary: In an election year, if a vacancy occurs in a legislative or partisan county office after the general election but before the start of the next term, the successor may take office immediately after the election results are certified if he or she is of the same political party as the incumbent. If the successor is of a different political party than the incumbent, a vacancy must be filled through the appointment process.

Votes on Final Passage:

House	93	0	
Senate	46	0	(Senate amended)
House	97	0	(House concurred)

Effective: January 1, 2004

SHB 1494
C 303 L 03

Allowing state and local governments to sell and lease personal property to foreign entities.

By House Committee on Local Government (originally sponsored by Representatives Delvin, Cooper, Jarrett, Berkey, Upthegrove and Conway).

House Committee on Local Government
Senate Committee on Commerce & Trade

Background: The state, any municipality, or a political subdivision of the state may sell, transfer, exchange, lease, or dispose of real or personal property to the state, a political subdivision of the state, or the federal government.

Before disposing of surplus property with an estimated value greater than $50,000, the state or local government must hold a public hearing in the county where the property is located. Notice must be published at least 10 days but not more than 25 days before the hearing in a newspaper of general circulation in the area where the property is located. If the property is real property, the notice must also describe the proposed use of the lands involved. A news release must also be disseminated to the electronic media in the area where the property is located.

Summary: The state, any municipality, or political subdivision of the state may sell, transfer, exchange, lease, or dispose of personal surplus property, except weapons, to a foreign entity in accordance with formal hearing and notice requirements.

Votes on Final Passage:

House	95	0
Senate	43	2

Effective: May 14, 2003

SHB 1495
C 320 L 03

Changing provisions relating to the summary suspension of a liquor license pending revocation proceedings.

By House Committee on Commerce & Labor (originally sponsored by Representatives Hudgins, Chandler, Conway and Kenney; by request of Liquor Control Board).

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

Background: The Liquor Control Board (Board) licenses and controls the sale and distribution of alcohol in Washington. The Board also enforces laws related to the sale of alcohol.

The Board may summarily suspend a liquor license and require the licensee to stop serving alcohol for up to 30 days without a prior hearing if it finds that the health, safety, and welfare of the public requires immediate action. The Board has established rules for summarily suspending the license of an establishment involved in serious criminal activity. When the Board summarily suspends a license, the licensee may request a hearing on the issue.

When the summary suspension expires, regardless of whether or not a hearing has been held, the licensee may return to serving alcohol.

Summary: After a preliminary investigation is completed, the Board may summarily suspend a liquor license for up to 180 days.

Votes on Final Passage:

House	95	0	
Senate	49	0	(Senate amended)
House	97	0	(House concurred)

Effective: July 27, 2003

ESHB 1509
PARTIAL VETO
C 235 L 03

Establishing the economic development commission.

By House Committee on Trade & Economic Development (originally sponsored by Representatives Skinner, Veloria, Sehlin, Pettigrew, McDonald, Schual-Berke, McCoy, McDermott, Linville, Upthegrove and Conway).

House Committee on Trade & Economic Development
House Committee on Appropriations
Senate Committee on Economic Development

Background: In September 2002, Governor Locke created an Economic Development Commission (EDC) to help guide Washington's economic development policy and provide continuity to the state's economic strategy. The EDC was formed on the recommendation of Governor Locke's Competitiveness Council.

The EDC has 14 business leaders from across the state and a representative from the labor community. The EDC is to provide policy oversight and long-term guidance on issues directly related to the state's economy to the Department of Community, Trade & Economic Development (DCTED). The Governor directed the EDC to review and update current economic development strategy and performance measures, and perform an annual evaluation, as well as assisting the DCTED on the procurement and deployment of private funds for business development, recruitment and promotion. The EDC is also to solicit ideas from citizens around the state.

Summary: The Washington State Economic Development Commission (Commission) is established. The

current EDC, created by Executive Order, will continue to serve until June 30, 2004.

The Commission will consist of seven to nine members appointed by the Governor, and each will serve three year terms. The members selected must broadly represent the state's geographic regions, including central and eastern Washington. In making the appointments, the Governor must consult with organizations with an interest in economic development, as well as the chairs of the legislative committees with jurisdiction over economic development issues. The Governor should also consider representation from women-owned businesses, minority-owned businesses and small businesses. Seventy-five percent of the Commission members must be from the private sector. The chair of the Commission shall be selected from the appointed members by a majority vote of the Commission.

The Commission may form committees and invite non-Commission members to serve on those committees.

The duties of the Commission include: reviewing and periodically updating the state's economic development strategy and performance measures, and performing an annual evaluation; providing policy direction to DCTED; identifying policies and programs to assist Washington's small businesses; assisting DCTED with procurement and deployment of private funds for business development, recruitment and promotion; providing policy direction to DCTED regarding the development of strategies that: (1) promote business retention, expansion and creation within the state; (2) market state products and services; (3) promote the state's business climate; (4) enhance relationships and cooperation between local governments, economic development councils, state agencies, and the Legislature; (5) integrate economic development programs; and (6) increase the flexibility of funds available for economic development. The Commissioners shall also meet with the chairs and ranking minority members of the legislative committees overseeing economic development policies.

The Director of DCTED must work with the Commission to develop and implement economic development policies consistent with the advice of the Commission.

The Commission will receive staff support from the Governor's office and the DCTED.

The Commission is required to provide a biennial report to the Legislature outlining the Commission's review of and recommendations regarding the state's laws, economic development policies, and programs. The first report is due by December 31, 2004.

Votes on Final Passage:

House	95	0	
Senate	49	0	(Senate amended)
House	97	0	(House concurred)

Effective: July 27, 2003

Partial Veto Summary: The Governor vetoed the section that requires the Director of the DCTED to work with the Commission to develop and implement economic development policies consistent with the advice of the Commission.

VETO MESSAGE ON HB 1509-S

May 12, 2003

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

Ladies and Gentlemen:

I am returning herewith, without my approval as to section 5, Engrossed Substitute House Bill No. 1509 entitled:

"AN ACT Relating to establishing the Washington state economic development commission to replace the governor's small business improvement council;"

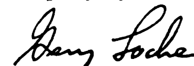
This bill establishes in statute the Washington Economic Development Commission. I established this commission by executive order September 25, 2002, and fully support the ongoing work of the Commission. I also support making the Commission more permanent by codifying its creation and responsibilities in statute.

Section 5 of the bill requires the director of the Department of Community, Trade, and Economic Development to work with the Commission to develop and implement economic development policies consistent with the advice of the Commission. This section reduces the authority of the governor over an executive cabinet agency. While I clearly welcome the advice and counsel of the Commission, policy authority over executive agencies must ultimately rest with the governor.

For this reason, I have vetoed section 5 of Engrossed Substitute House Bill No. 1509.

With the exception of section 5, Engrossed Substitute House Bill No. 1509 is approved

Respectfully submitted,



Gary Locke
Governor

SHB 1512

C 385 L 03

Allowing special hunts to reduce crop damage caused by wildlife.

By House Committee on Fisheries, Ecology & Parks (originally sponsored by Representatives Cox, Fromhold, Sump, Schoesler, Hatfield, Ahern, Clements and Armstrong).

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

Background: The Department of Fish and Wildlife (Department) is instructed to work closely with landowners to find non-lethal solutions to problem wildlife. However, if such efforts are not practical, the Department is authorized to increase the harvest of damage-causing animals during the hunting season. The Department also has the discretionary authority to conduct special hunts in problem areas as a result of recurring

complaints regarding property being damaged by wildlife.

In addition to special hunts, the owner or tenant of real property being damaged by wildlife is authorized to trap or kill problem wildlife that is causing damage to crops. However, that permission does not extend to endangered or threatened species, or to deer and elk. Problem deer and elk may only be killed with a take permit issued by the Department, unless the situation is an emergency and the Department has given the landowner verbal permission to harvest the deer or elk. On cattle ranching land, the owner may only declare an emergency if the Department does not respond within 48 hours of notification. Even if an emergency situation exists, the owners of cattle ranching land may not kill the problem wildlife if they did not make the land available for public hunting during the previous hunting season.

The Fish and Wildlife Commission (Commission) is authorized to conduct special hunts in areas where game populations exist at a level that damages property or over-utilizes the habitat. The Commission's authority includes the ability to identify the number and sex of animals that are allowed to be taken. The Director of the Department is required to determine a selection system for the hunters allowed to participate in a special season that ensures a random selection.

Summary: Special Hunts. The Commission is directed to authorize the issuance of either one or two antlerless permits per hunter for special hunts to be conducted in areas where the Department, or its designee, has confirmed six incidents of agricultural and horticultural crop damage caused by deer or elk. Complaints must be received from the owner or tenant of real property, or from several owners or tenants in the same locale.

As an alternative to hunting, the Department must work with affected entities to relocate deer and elk when it is needed to augment populations.

Hunter Selection. The Department is required to maintain a list of persons holding valid wildlife hunting licenses, arranged by county of residence, who are available to hunt deer or elk causing damage to crops. The Department must update the list at least annually. When contacting people to help control game damage to crops, the Department must use the list and must make all reasonable efforts to contact a resident of the county where the activity will occur before contacting a resident of a different county. The names on the list must be randomized in order to provide a fair distribution of the hunting opportunities. Hunters participating in these hunts must report their kills to the Department, and the information provided must be included in a summary of wildlife harvested that is available to the public.

Votes on Final Passage:

House	94	0	
Senate	46	3	(Senate amended)
House	97	0	(House concurred)

Effective: July 27, 2003

HB 1519
C 155 L 03

Calculating the death benefits for members of the teachers' retirement system, school employees' retirement system, and public employees' retirement system.

By Representatives Wood, Fromhold, Simpson, Cooper, Schindler, Conway, Delvin, Hunt, Gombosky, Sullivan, Wallace, Santos and Kenney.

House Committee on Appropriations
Senate Committee on Ways & Means

Background: Several death benefits are paid to survivors of members of the Public Employees' Retirement System (PERS), the School Employees' Retirement System (SERS), and the Teachers' Retirement System (TRS) who die as a result of injuries sustained in the course of employment.

One of the death benefits is a survivor benefit paid to the spouse or other eligible survivor. The amount of this survivor benefit is the greater of: 1) the member's accumulated contributions; or 2) the member's earned retirement benefit, actuarially reduced for payment in the form of a survivor benefit and also reduced from the plan's normal retirement age to the member's age at death.

A $150,000 death benefit is payable to PERS, SERS, and TRS members for deaths resulting from injuries sustained in the course of employment, payable as a sundry claim. This $150,000 is provided in budget language and expires June 30, 2003.

A workers' compensation death benefit may also be payable from the Department of Labor and Industries (L&I) for death resulting from injury sustained in the course of employment. A lump sum benefit may be payable from the L&I for burial expenses, as well as a monthly benefit of 60 percent of gross wages up to 120 percent of the state's average wage ($3,723 for Fiscal Year 2002).

The spouse or dependents of an individual covered by Social Security may be eligible for a death benefit if they meet age, income, or other restrictions. The age eligibility for the Social Security death benefit begins at age 60. The size of the Social Security death benefit is dependent on the contributions the deceased made to Social Security during the individual's career. For example, the maximum family benefit that could be paid from Social Security for the death of a male age 45 earning $40,000 per year is approximately $2,300 per month.

According to the Office of the State Actuary's 1996-2001 Actuarial Experience Study, there are about 10 duty-related deaths each biennium in the PERS, SERS, and TRS systems combined.

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

Votes on Final Passage:

House	94	0
Senate	48	0

Effective: July 27, 2003

ESHB 1524
C 297 L 03

Restricting utility assessments and charges for certain mobile home parks.

By House Committee on Local Government (originally sponsored by Representatives Schindler, Romero, Crouse, Mielke, Cox, O'Brien, Benson, Berkey, Ericksen, Jarrett, Ahern and Rockefeller).

House Committee on Local Government
Senate Committee on Financial Services, Insurance & Housing

Background: All cities, towns, and counties (local governments) are authorized to construct, maintain, and operate sewer systems. Local governments do not have express statutory authority to require property owners to connect to a sewer system. If a local government determines that a septic system has failed, however, it is directed to take corrective actions to address the condition.

Unlike local governments, water-sewer districts have express authority to require property owners within an area serviced by the districts' sewers to connect to the sewer system, whether the septic system has failed or not.

In 1998 the Legislature prohibited cities, towns, or counties from requiring that an existing mobile home park replace an existing, functional septic system with a sewer system within the community unless the local board of health determines that the septic system is failing.

Summary: A city, town, county, local improvement district, utility local improvement district, municipal corporation, political subdivision, or any other person, firm, or corporation may not require a mobile home park to pay a sewer availability charge, standby charge, or any other similar type of charge, including penalties for nonpayment of these charges, until the mobile home park connects to that utility. A local government may only charge a mobile home park prospectively for sewer service once the mobile home park connects to the sewer. This provision applies retroactively to 1993.

Votes on Final Passage:

House	87	7	
Senate	31	16	(Senate amended)
House	98	0	(House concurred)

Effective: July 27, 2003

HB 1526
C 70 L 03

Revising provisions relating to cost-reimbursement agreements between state agencies and permit applicants.

By Representatives Linville, Armstrong, Haigh, Morris, Cooper, Mastin, Gombosky, Delvin, Grant, Schoesler, Sullivan, Chandler and Schual-Berke.

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

Background: Cost-reimbursement agreements allow an applicant for a state or local government permit or lease to provide funds for the staff necessary to process the required application in a timely manner. Voluntary cost-reimbursement agreements may be negotiated between applicants for complex permits and the departments of Ecology, Natural Resources, Health, Fish and Wildlife, and local air pollution control authorities. The Department of Natural Resources may also use these agreements for any lease application except aquatic leases. A complex permit is defined as a permit which requires an environmental impact statement.

Under a cost-reimbursement agreement, the applicant pays the reasonable costs incurred by the agency or local pollution control authority for permit coordination, environmental review, application review, technical studies, permit processing, and compliance with requirements of other relevant laws. The agreement must identify the specific tasks, costs, and schedule for work to be conducted. Funds under a cost-reimbursement agreement are used by the agency to contract with independent consultants to carry out the work covered by the agreement. The funds may also be used to assign current staff to review the consultants' work and to provide necessary technical assistance when an independent consultant with comparable technical skills is unavailable.

No new cost-reimbursement agreement may be negotiated after July 1, 2005. An agency may continue to administer any cost-reimbursement agreement which was entered into before July 1, 2005, until the project is completed.

Summary: The deadline for entering into voluntary cost-reimbursement agreements between applicants for permits and the departments of Ecology, Natural Resources, Health, Fish and Wildlife, and local air pollu-

tion control authorities is extended from July 1, 2005, to July 1, 2007.

Provisions that only complex projects requiring an environmental impact statement qualify for cost-reimbursement agreements are repealed.

Votes on Final Passage:

House	94	0
Senate	49	0

Effective: July 27, 2003

ESHB 1530
FULL VETO

Changing rules for venue for declaratory judgments under the administrative procedure act.

By House Committee on Judiciary (originally sponsored by Representatives Grant, Holmquist, Armstrong, Blake, Shabro, Talcott, Ruderman, Schual-Berke, Schoesler, Hinkle, Condotta, Newhouse, Skinner, Sehlin, Bailey, Woods, Kristiansen and Alexander).

House Committee on Judiciary
Senate Committee on Judiciary

Background: The Administrative Procedure Act (APA) details procedures state agencies are required to follow when adopting rules. Generally, a rule is any agency order, directive, or regulation of general applicability that: (1) subjects a person to a sanction if violated; or (2) establishes or changes any procedure or qualification relating to agency hearings, benefits or privileges conferred by law; licenses to pursue any commercial activity, trade, or profession; or standards for the sale or distribution of products or materials. Before adopting a rule, an agency must follow specified procedures, including publishing notice in the state register and holding a hearing.

Under the APA, the validity of any rule adopted by an agency may be challenged by a petition for declaratory judgment when it appears the rule or application of the rule interferes with or impairs the legal rights or privileges of the petitioner. The petitioner has the burden of demonstrating the invalidity of the rule. The court may declare a rule invalid only if it finds that the rule: (1) violates the constitution; (2) exceeds the statutory authority of the agency; (3) was adopted without compliance with rule-making procedures; or (4) is arbitrary and capricious.

The petition for declaratory judgment on the validity of an agency rule must be filed in Thurston County Superior Court.

Summary: A declaratory action challenging an agency rule under the APA may be brought in the superior courts of Clark, Spokane, or Whatcom counties, in addition to Thurston County.

Votes on Final Passage:

House	83	15
Senate	35	14

VETO MESSAGE ON HB 1530-S

May 20, 2003

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 Substitute House Bill No. 1530 entitled:

"AN ACT Relating to venue for declaratory judgments under the administrative procedure act;"

This bill would have expanded venue provisions for the filing of declaratory judgment petitions challenging the validity of state agency rules.

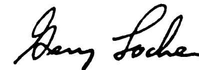
Throughout my administration, I have worked to bring greater predictability and certainty to the regulatory process because this is beneficial to both state agencies and to those who are regulated. This legislation would have worked counter to that objective.

Under this bill, any person would have been able to seek a declaratory judgment against an agency rule in any of five superior courts across the state. The bill did not require any tie of business location, property ownership, or residence in the county where one might bring a petition. Judges of the Thurston County Superior Court have developed special expertise in the complexities of the Administrative Procedures Act (APA), but under this bill, declaratory judgment petitions could intermittently arrive in the superior courts of Yakima, Clark, Whatcom or Spokane Counties, in addition to Thurston County. Because I can appreciate the cost and time entailed in traveling to Thurston County, I indicated support for a compromise that would have expanded venue to a second court on the east side of the state, but that approach was rejected by the Legislature in favor of this bill.

Additionally, decisions rendered by a superior court do not have precedential value for courts in other counties, so similar cases could be brought in multiple counties with different results. In order to arrive at a single statewide resolution, agencies would likely have to appeal conflicting decisions to set a statewide precedent. This would have added time and cost to the rule-making process, making it less orderly and less predictable.

For these reasons, I have vetoed Engrossed Substitute House Bill No. 1530 in its entirety.

Respectfully submitted,



Gary Locke
Governor

HB 1531
FULL VETO

Requiring the governor's signature on significant legislative rules.

By Representatives Grant, Holmquist, Kessler, Buck, Linville, Haigh, Ruderman, Armstrong, O'Brien, Miloscia, Lovick, Newhouse, Morris, Gombosky, Hatfield, Chandler, Veloria, McMahan, Quall, Schindler, Blake, Shabro, Talcott, Clibborn, Schual-Berke, Bush,

Schoesler, Upthegrove, Hinkle, Condotta, Skinner, Sehlin, Bailey, Woods, Kristiansen and Alexander.

House Committee on State Government
Senate Committee on Government Operations & Elections
Senate Committee on Ways & Means

Background: The Administrative Procedure Act (APA) details certain requirements that must be satisfied in order for an agency to adopt a significant legislative rule. A significant legislative rule is one that:

- adopts substantive provisions of law, the violation of which subjects the violator to a penalty or sanction;
- establishes, alters, or revokes any qualification or standard for the issuance, suspension, or revocation of a license or permit; or
- adopts a new policy or regulatory program, or makes significant amendments to a policy or regulatory program.

Significant legislative rules do not include emergency rules, procedural rules, interpretative rules, or rules adopted through expedited rule-making. Examples of the requirements for adoption of a significant legislative rule include a cost/benefit analysis, a determination of whether the rule imposes more stringent requirements on private entities than on public entities, and a determination of whether the rule differs from federal regulations and law. The following agencies must satisfy the APA requirements in order to adopt a significant legislative rule:

- Department of Ecology
- Department of Labor and Industries
- Department of Health
- Department of Revenue
- Department of Social and Health Services
- Department of Natural Resources
- Employment Security Department
- Forest Practices Board
- Office of the Insurance Commissioner
- Department of Fish and Wildlife

The final order by which any rule is adopted by an agency must contain the date the agency adopted the rule, a concise description of the purpose of the rule, a reference to all rules repealed, amended or suspended by the rule, a reference to the specific authority, statutory or otherwise, authorizing the agency to adopt the rule, any findings required for adoption of the rule, and the effective date.

Summary: For significant legislative rules adopted by agencies under the authority of the Governor, the final order of adoption must also include the Governor's signature.

Votes on Final Passage:

House	91	5
Senate	38	11

VETO MESSAGE ON HB 1531

April 18, 2003

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, House Bill No. 1531 entitled:

"AN ACT Relating to the governor's signature on significant legislative rules;"

House Bill No. 1531 provides that I sign all significant legislative rules adopted by my cabinet agencies.

I have long been a proponent of regulatory reform, as demonstrated by Executive Order 97-02, which directs agencies to repeal unnecessary rules, consolidate and clarify rules, and ensure a more open rule adoption process. A primary objective since I took office has been to make government regulations easier to understand and follow, and with the input and help of those who must live with the rules, we have made great strides.

Building on those efforts, earlier today, I was pleased to sign Substitute House Bill 1550, relating to the office of regulatory assistance, which will help applicants to navigate rulemaking and permitting. House Bill No. 1531, on the other hand, would undermine all of this progress. The bill's mandate that I sign rule adoption orders for 75 to 100 rules each year would delay new rules and do so at additional cost while adding no value. In short, it would add rolls of red tape, the very tape we're working hard to cut.

Under this bill, I would have to undertake an independent evaluation of the legal justification, costs and benefits, and public process that the agency relied on in determining a rule should be adopted.

This evaluation would not be a matter of merely reading a rule and deciding whether or not to sign it. In some cases, I would be required to absorb the content of records extending over several years. My legal staff and I would need to spend a substantial amount of time in fully understanding the complex elements that went into a proposed rule. This is not the way to manage a large enterprise.

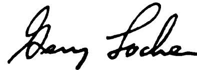
As the manager of state government, I expect and require my capable agency directors to carry out the statutory responsibilities assigned to their agencies, including proper rule development and review. My agency directors know what I expect of them, and they know they must meet my expectations.

Sending the final rule to my desk carries a significant risk as well. Stakeholders may be tempted to withhold their full and open participation in the agency's public process with the expectation of influencing my decision whether or not to sign the adoption order. Meanwhile, to avoid legal challenges that my decision was arbitrary and capricious, I will have to develop and apply a set of criteria and procedures on which I could base a determination not to sign a potential rule after the public process and agency analysis led to a recommendation that it be adopted. This proposed new layer of review may create, rather than reduce, political intrigue and distrust.

I am well aware that some rules proposed in recent years have been highly controversial. Rules to ensure worker safety, protect the environment, and other critical governmental duties are sometimes, regrettably, achieved without consensus. Nevertheless, I continue to work closely with agency directors to evaluate the content of such proposals and examine mechanisms to achieve the intended objectives with reduced costs or impacts. I believe that a requirement that I sign the adoption orders for all significant legislative rules will frustrate our work to make state government more responsive, more efficient, and more effective. Therefore, I am returning House Bill No. 1531 without my signature.

For these reasons I have vetoed House Bill No. 1531 in its entirety.

Respectfully submitted,



Gary Locke
Governor

SHB 1550
C 71 L 03

Revising the duties of and renaming the office of permit assistance.

By House Committee on State Government (originally sponsored by Representatives Linville, Armstrong, Haigh, Buck, Schual-Berke, McDermott and Conway).

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

Background: The Permit Assistance Center (PAC) was created in 1995 in the Department of Ecology (DOE) to provide the public with information regarding environmental permitting laws and assistance to businesses and public agencies in complying with these laws. In addition to other requirements, the PAC was directed to develop and provide a coordinated state permitting procedure that project applicants could use at their option and expense and was authorized by statute to recover costs for this coordinated permit process.

Statutory provisions for the PAC were subject to a sunset review. Although the Joint Legislative Audit and Review Committee (JLARC) prepared a sunset review recommending reauthorization, the PAC's statutory provisions expired on June 30, 1999. An appropriation in the 1999-2001 Omnibus Operating budget continued funding for the PAC operations, and it continues to operate within the DOE.

In 2002 legislation was enacted to transfer the powers, duties, and functions of the DOE's PAC to a new Office of Permit Assistance (OPA) within the Office of Financial Management. The OPA provides information services and, upon request, facilitates permitting projects for a cost or at the OPA expense if it is determined it is in the public interest to do so. In addition to these responsibilities, the OPA:

- develops informal processes for dispute resolution between agencies and project applicants;
- conducts customer surveys to evaluate its effectiveness;
- reviews initiatives developed by the Transportation Permit Efficiency and Accountability Committee to determine if any would be beneficial if implemented for other projects;
- prioritizes expenditures of State General Fund money to provide services to small project applicants; and
- provides biennial reports to the Legislature on OPA performance, on any identified statutory or regulatory conflicts related to authorities and roles of permit agencies, and on use of outside independent consultants in the coordinated permit process.

The Permit Assistance Advisory Board assesses the performance of the OPA, reviews annual customer surveys to determine the OPA's effectiveness, and recommends changes to the OPA's performance.

Summary: The OPA is renamed the Office of Regulatory Assistance (ORA). A director for the ORA will be hired no later than June 1, 2003. The ORA will coordinate with state agencies to develop an office web site that is linked through the Office of the Governor's web site. The web site will contain information about regulatory requirements for businesses and citizens of Washington. The web site will also provide information or links to information on the following:

- federal, state, and local rule-making processes and permit requirements applicable to Washington businesses and citizens;
- federal, state, and local licenses, permits, and approvals necessary to start and operate a business or develop real property in Washington;
- state and local building codes;
- federal, state, and local economic development programs available to businesses in Washington; and
- state and local agencies regulating or providing assistance to citizens and businesses operating a business or developing real property in Washington.

Votes on Final Passage:

House	96	0
Senate	46	0

Effective: April 18, 2003 (Section 2)
July 27, 2003

EHB 1561
C 207 L 03

Eliminating certain department of social and health services' reporting requirements.

By Representatives Orcutt, Kagi, Pettigrew and Boldt; by request of Department of Social and Health Services.

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

Background: The Department of Social and Health Services (DSHS) is required to provide 34 reports on a quarterly, semi-annual, or annual basis, in addition to other one-time reporting requirements. Those reports include the following:

- annual report to the Legislature on the amount of debt due to the DSHS and the amount of debt that the DSHS has written off as no longer cost-effective to pursue;
- quarterly report to the appropriate local government entities and annual report to the Legislature concerning the implementation of the Family Reconciliation Act and the Juvenile Court Act in Cases Relating to Dependency of a Child and the Termination of a Parent and Child Relationship;
- annual report to the Legislature regarding any transfers of funds appropriated for foster care services to purchase preservation services or other preventive services for children at imminent risk of out-of-home placement or who face a substantial likelihood of out-of-home placement;
- annual report to the Legislature on the effectiveness of the risk assessment process, which the DSHS must use when investigating alleged child abuse and neglect referrals;
- annual report to the Legislature on security at juvenile facilities;
- annual report to the Governor and the Legislature on opiate substitution treatment;
- annual report to the Governor and the Legislature on the success rates of programs for treatment of chemical dependency in juvenile offenders;
- annual report, in conjunction with a national independent accreditation entity, to the appropriate committees of the Legislature on progress of the DSHS towards complete accreditation of children's services;
- semi-annual report to the Legislature, by region, on the Kidscreen assessment tool for children in foster care;
- quarterly report to the appropriate committees of the Legislature on progress against appropriate baseline measures for foster parent retention and stability of foster placements;
- report to the appropriate committees of the Legislature on any additional home and community-based waiver request for persons with developmental disabilities, prior to submission of the request;
- quarterly report to the appropriate fiscal and policy committees of the Legislature on valid outcome measures of job retention and wage progression for families who leave the WorkFirst program, measured after 12 months, 24 months, and 36 months;
- annual report to the Legislature on WorkFirst work support benefits;
- annual report to the appropriate fiscal and policy committees of the Legislature on the status of implementation of recommendations of the performance audit of the public mental health system conducted by the Joint Legislative Audit and Review Committee;
- annual report to the Governor and the Legislature on the number of women reported to the DSHS as the parent of a drug-affected or alcohol-affected infant and the provision of pharmaceutical birth control and tubal ligation services to those women;
- annual report to the Legislature on the economic, gender, geographic, or racial disproportionality in the rates of arrest, detention, trial, treatment, and disposition in the state's juvenile justice system, and the causes of that disproportionality; and
- annual report to the Legislature on its efforts to reduce violence in state hospitals.

Summary: The DSHS is no longer required to:

- annually report to the Legislature on the amount of debt due to the DSHS and the amount of debt that the DSHS has written off as no longer cost-effective to pursue;
- quarterly report to the appropriate local government entities concerning the implementation of the Family Reconciliation Act and the Juvenile Court Act in Cases Relating to Dependency of a Child and the Termination of a Parent and Child Relationship;
- annually report to the Legislature on the effectiveness of the risk assessment process, which the DSHS must use when investigating alleged child abuse and neglect referrals;
- annually report to the Legislature on security at juvenile facilities;
- annually report to the Governor and the Legislature on opiate substitution treatment;
- annually report to the Governor and the Legislature on the success rates of programs for treatment of chemical dependency in juvenile offenders;
- annually report to the appropriate committees of the Legislature on progress of the DSHS towards complete accreditation of children's services;
- semi-annually report to the Legislature, by region, on the Kidscreen assessment tool for children in foster care;
- quarterly report to the appropriate committees of the Legislature on foster parent retention and stability of foster placements;
- report to the appropriate committees of the Legislature on home and community-based waiver requests for persons with developmental disabilities;
- quarterly report to the appropriate fiscal and policy committees of the Legislature on valid outcome measures of job retention and wage progression for families who leave the WorkFirst program;
- annually report to the Legislature on WorkFirst work support benefits;
- annually report to the appropriate fiscal and policy committees of the Legislature on the status of implementation of recommendations of the performance audit of the public mental health system;

- annually report to the Governor and the Legislature on the number of women reported to the DSHS as the parent of a drug-affected or alcohol-affected infant and the provision of pharmaceutical birth control and tubal ligation services to those women; and
- annually report to the Legislature on its efforts to reduce violence in state hospitals.

The DSHS is required to provide an annual report to the Legislature concerning the implementation of the Family Reconciliation Act and the Juvenile Court Act in Cases Relating to Dependency of a Child and the Termination of a Parent and Child Relationship in only those years in which it has declined to accept custody of a child from a law enforcement agency or it has received a report of a child being released without placement.

The DSHS is required to provide an annual report to the Legislature regarding any transfers of funds appropriated for foster care services to purchase preservation services or other preventive services for children at imminent risk of out-of-home placement or who face a substantial likelihood of out-of-home placement, only if transfers occur.

The DSHS is no longer required to annually report to the Legislature on the economic, gender, geographic, or racial disproportionality in the rates of arrest, detention, trial, treatment, and disposition in the state's juvenile justice system, and the causes of that disproportionality. The Administrator for the Courts is required to collect such data as may be necessary to monitor any disparity in processing or disposing of cases involving juvenile offenders due to economic, gender, geographic, or racial factors that may result from implementation of 1993 amendments to the Juvenile Justice Act of 1977. The Administrator for the Courts may, in consultation with juvenile courts, determine a format for the collection of the data and a schedule for the reporting of the data, and must keep a minimum of five years of data at any given time.

Votes on Final Passage:

House	95	0	
Senate	49	0	(Senate amended)
House	96	1	(House concurred)

Effective: July 27, 2003

ESHB 1564

C 23 L 03

Clarifying county treasurer fiscal provisions.

By House Committee on Local Government (originally sponsored by Representatives Alexander, Fromhold, Mielke, Kessler and Buck).

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

Background: The county treasurer (treasurer) operates under the authority of various state statutes concerning aspects of receiving, processing, and disbursing funds. The treasurer is the custodian of the county's money and the administrator of the county's financial transactions. In addition to services for the county, the treasurer provides financial services to special purpose districts and other units of local government, including the responsibility to receipt, disburse, invest, and account for the funds of each of these entities. The treasurer receives and disburses funds, invests funds held, and maintains financial records in accordance with accepted accounting principles. The treasurer is also responsible for the collection of various taxes, including legal proceedings to collect past due amounts. The treasurer has other miscellaneous duties such as conducting bond sales and sales of surplus county property.

Summary: The person authorized to establish lines of credit and to pay interest and other finance or service charges for local governments is changed from "fiscal officer" to "treasurer."

If personal property is sold at auction, any outstanding property taxes will become an automatic lien against the proceeds of the auction, and will be remitted to the treasurer. If any proceeds are distributed in violation of this provision, the seller or agent of the seller will be liable for all taxes, interest, and penalties owed to the treasurer.

Real property may not be divided until all current year taxes and any delinquent taxes are paid in full.

At any time the day before a foreclosure sale of real property, any person owning a "recorded" interest in the property may pay the taxes, interest, and cost due to the treasurer. Following a foreclosure sale, the treasurer must refund any amount in excess of the minimum bid price to the record owner of the property. The record owner of the property is the person who held title on the date of issuance of the certificate of delinquency. Any assignments of interests, deeds, or other documents executed or recorded after the certificate of delinquency was filed by the treasurer do not affect the payment of excess funds to the record owner.

If the treasurer issues a refund that includes interest, the treasurer is authorized not only to remove the amount of the overpaid tax but also the interest from the state or the county general fund in the same proportion as it was paid.

The legislative authority of a district where the county treasurer serves as an ex officio treasurer may choose to not change transaction processing costs for nontax payments.

Votes on Final Passage:

House	91	0
Senate	47	0

Effective: July 27, 2003

HB 1566

C 72 L 03

Modifying record retention provisions for county auditors.

By Representative Alexander.

House Committee on Local Government

Senate Committee on Government Operations & Elections

Background: "Official public records" include original claims, receipts, and other documents necessary to isolate and prove the validity of every transaction relating to the receipt, use, and disposition of all public property and public income. The retention period for official public records is six years. The Budgeting, Accounting, and Reporting System's manual states that the original copy of all claims should be filed in the office of the auditing officer of the municipality. Supporting documentation must be retained and either attached to the claims or canceled by the auditing officer to prevent reuse. Districts that do not issue their own warrants send either original claims or other supporting documentation (listing of approved claims) to the county auditor. The county auditor audits all claims, demands, and accounts chargeable to the county and pays all approved claims through warrants drawn from the county treasurer.

Summary: County auditors have the option of retaining electronic copies of original claims, bills, and specified associated records in a format sufficient for the conduct of official business. The term "claims" does not include claims for damages filed against counties.

Votes on Final Passage:

House	95	0
Senate	46	0

Effective: July 27, 2003

SHB 1571

PARTIAL VETO

C 271 L 03

Enhancing enforcement of child support obligations.

By House Committee on Juvenile Justice & Family Law (originally sponsored by Representatives Holmquist, Dickerson, Delvin, Upthegrove, Pettigrew, Hinkle, Priest, Condotta, Kristiansen, Orcutt, Rockefeller, Bush, McCoy and Clements).

House Committee on Juvenile Justice & Family Law

Senate Committee on Children & Family Services & Corrections

Background: Some inmates in the Department of Corrections (DOC) facilities are employed in work programs. These programs are categorized into five classes:

Class I industries are generally operated and managed by for-profit or nonprofit organizations under contract with the DOC. Inmates in this classification earn wages for their work.

Class II industries are state-owned and operated industries that produce products and services that are only sold to public agencies and nonprofit organizations. Inmates in this classification earn "gratuities" rather than wages.

Class III industries are institutional support industries.

Class IV industries are community work industries where the inmate provides services to his or her resident community.

Class V programs are designed for the inmate to work off restitution which he or she owes to a victim.

The DOC is currently responsible for taking deductions from the gross wages and gratuities of each inmate working in class I through class IV correctional industry programs. The DOC is required by statute to take certain mandatory deductions:

For inmates working in class I industries (and others earning at least minimum wage), the DOC takes 55 percent of the inmates' income. The 55 percent is divided into:

- 5 percent for crime victims' compensation;
- 10 percent for an inmate savings account;
- 20 percent to the DOC for costs of incarceration; and
- 20 percent for any owed legal financial obligations (LFOs) which can also include restitution for the victim.

For inmates working in class II industries, the DOC takes 50 percent of the inmate's income. The 50 percent is divided into:

- 5 percent for crime victims compensation;
- 10 percent for an inmate savings account;
- 15 percent to the DOC for costs of incarceration; and
- 20 percent for any owed LFOs.

For inmates working in class III industries, the DOC takes 5 percent of the inmate's income for the purpose of crime victim's compensation.

For inmates working in class IV industries, the DOC takes 5 percent of the inmate's income to contribute to the cost of incarceration.

When an inmate receives any funds in addition to his or her wages or gratuities, such as when a family member or friend sends a check to the inmate directly through the mail or the inmate wins a monetary lawsuit, then the additional funds are subject to the same 55 percent deduction as those inmates working in class I industries, and the funds are divided into the same categories.

Child support payments may be deducted from an inmate's wages and from the inmate's DOC savings account, in two ways:

- In instances where an offender works for a class I industry, the Division of Child Support (DCS) has

the authority to send a payroll deduction notice directly through the employer to have child support payments withdrawn from the inmate's paycheck each pay period prior to the inmate receiving the paycheck; or

- The DCS may issue an order to withhold and deliver child support payments from any inmate who owes child support. Once the DOC receives the order, the funds in the inmate's savings account are sent to the DCS.

Summary: The DOC is required to deduct 15 percent from class II through IV gratuities earned by an inmate working in a correctional facility work program. The DOC is also required to deduct 15 percent from any funds an inmate receives other than from wages or gratuities, except for funds received as a result of a settlement or award resulting from legal action. Inmates who have been sentenced to life imprisonment without the possibility of parole, or death, are also subject to the 15 percent deduction from money received by an inmate, except for funds received as a result of a settlement or award resulting from legal action.

The Legislature intends that, unless proscribed by federal law or court order, child support deductions go directly to the person or persons in whose custody the child is and who is responsible for the daily support of the child.

Nothing in the act limits the DCS from taking collection action against an inmate's moneys, assets, or property which it is otherwise authorized to do by statute, including the collection of moneys received as a result of a settlement or awards resulting from legal action.

Votes on Final Passage:

House	93	0	
Senate	47	0	(Senate amended)
House			(House refused to concur)
Senate	46	0	(Senate amended)
House	98	0	(House concurred)

Effective: July 27, 2003

Partial Veto Summary: The Governor vetoed the intent section.

VETO MESSAGE ON HB 1571-S

May 14, 2003

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

Ladies and Gentlemen:

I am returning herewith, without my approval as to section 1, Substitute House Bill No. 1571 entitled:

"AN ACT Relating to enhancing necessary child support payments;"

This bill enhances child support collections from inmates. I am pleased to enact a law that will ease collections from incarcerated persons. Parents in prison should not be relieved of their obligation to support their children.

However, the intent section of this bill is overly broad and the language is inappropriate for Revised Code of Washington (RCW), Chapter 72, State Institutions. Amendments to alter the purpose and uses of the child support collection system should be made to the child support chapters, 26.23 RCW, 74.20 RCW, or 74.20A RCW.

For these reasons, I have vetoed section 1 of Substitute House Bill No. 1571.

With the exception of section 1, Substitute House Bill No. 1571 is approved.

Respectfully submitted,

Gary Locke
Governor

HB 1576

C 221 L 03

Revising provisions relating to dismissal of citations for failure to provide proof of insurance.

By Representatives Campbell, Kirby, Newhouse and Moeller.

House Committee on Judiciary
Senate Committee on Judiciary

Background: All drivers of cars registered in this state are required to have liability insurance, or show other financial coverage, of a specified type and amount. In addition, all drivers are required to carry proof of such financial responsibility in their cars and are required to show that proof upon the request of a law enforcement officer.

Failure to provide proof of insurance is a traffic infraction, punishable by a fine of $250 or by community restitution.

If a driver subsequently presents proof that he or she was in fact covered by insurance at the time of the request for proof, the infraction will be dismissed. If the proof is submitted by mail, the court may assess a $25 administrative fee to cover the cost of the dismissal. However, the driver may also present the proof in person to the court, in which case there is no statutory authorization for an administrative fee.

Summary: If a driver appears in person to get a failure to provide proof of insurance citation dismissed, the court may assess an administrative fee of $25.

Votes on Final Passage:

House	84	10
Senate	49	0

Effective: July 27, 2003

HB 1591

C 73 L 03

Modifying excise tax interest provisions.

By Representatives Gombosky, Cairnes and McIntire; by request of Department of Revenue.

House Committee on Finance
Senate Committee on Ways & Means

Background: The Department of Revenue is authorized to audit taxpayer records and make an assessment if the taxpayer has failed to pay the entire amount of his or her tax obligation. Interest charges are applied to these assessments. The interest rate is the annualized average of the federal short-term rate plus two percentage points. This rate is calculated by taking an average of the federal short-term rate for the months of January, April, July, and October of the preceding calendar year. For each calendar year included in the audit, interest starts in the February that follows the calendar year. If the audit period does not end in December, then interest for that period starts one month after the end of the period.

A taxpayer who pays taxes in excess of the amount due is entitled to a refund of the overpayment and interest on the amount of the overpayment. The interest rate is the same rate as charged on assessments. In cases where multi-year audits discover overpayments, interest payments start in January following the calendar year in which the overpayment was made. If a taxpayer discovers that he or she has overpaid, the taxpayer may request a refund. Interest is paid on the refund from the date of overpayment.

Taxpayers may ask for refunds on overpayments of tax up to four years after the overpayment. An exception to this time period is provided for federal contractors that are required to refund or credit to the United States taxes imposed on these contractors by Washington on amounts the contractor received from the federal government.

Summary: The annual period for calculating the interest rate used by the Department of Revenue for assessments and refunds is changed to end in July rather than October.

The starting point for interest payments on overpayments of excise taxes is delayed. If the audit or refund period covers a full calendar year or multiple calendar years, then interest on any overpayment starts in the February that follows the calendar year. If the audit or refund period does not end in December, then interest for that period starts one month after the end of the period.

The exception to the four-year time period for requesting tax refunds related to federal contractors is removed.

Votes on Final Passage:

House	93	0
Senate	46	0

Effective: July 27, 2003
January 1, 2004 (Section 2)

ESHB 1592

C 196 L 03

Regulating special license plates.

By House Committee on Transportation (originally sponsored by Representatives Simpson and Ericksen).

House Committee on Transportation
Senate Committee on Highways & Transportation

Background: The power to create special license plates has been historically vested in the Legislature. Every year the Legislature receive requests from organizations seeking to create a special license plate series. The creation of a new special license plate series requires state expenditures and the state has had difficulty recouping those costs in the past.

The 2002 Supplemental Transportation Budget directed the Legislative Transportation Committee (LTC) to review the costs, processes, and other considerations relating to special license plates. As a result, the LTC established the special license plate work group and developed proposed legislation to aid the Legislature in reviewing special license plate applications.

Summary: PART I: Special License Plate Review Board. The Special License Plate Review Board (SLPRB) is created and consists of seven members: one member appointed by the Governor to serve as the chairman, four members of the Legislature, one from each caucus of the House and Senate, a Department of Licensing (DOL) representative, and a Washington State Patrol (WSP) representative. Members of the SLPRB will serve four-year terms and may not serve more than three consecutive terms.

The SLPRB does not in any way preclude the authority of the Legislature to independently propose and enact special license plate legislation.

The SLPRB is charged with reviewing and either approving or rejecting special license plate applications submitted by sponsoring organizations. Within seven days of making a determination on an application, the SLPRB must issue an approval or rejection letter to the sponsoring organization, to the DOL, to the legislative sponsor identified in the application, and to the chairs of the House and Senate Transportation committees.

The SLPRB must review the number of specialty plates sold for each plate series on an annual basis and may make recommendations to the Legislature on the need to discontinue a special license plate series.

The SLPRB must meet at least one time a year, within 90 days before an upcoming legislative session. The SLPRB must be compensated from the general appropriation for the LTC.

The DOL must provide administrative support to the SLPRB which includes general staffing, processing special license plate applications, compiling annual financial reports submitted by sponsoring organizations, etc.

The LTC will provide general oversight of the SLPRB which includes processing and approving board members' compensation requests, reviewing the annual financial reports of sponsoring organizations, and reviewing the list of special license plate applications considered by the SLPRB in the last year.

PART II: Eligibility Requirements for a Sponsoring Organization. If a private entity wishes to sponsor a special license plate application, the entity must be a nonprofit organization, located in Washington, and registered as a charitable organization.

If a governmental entity wishes to sponsor a special license plate application, it must be a political subdivision, a federally recognized tribe, an agency, or a community or technical college.

PART III: General Requirements. Sponsoring organizations must submit to the DOL either: (1) full prepayment for the start-up costs associated with implementing a new license plate series; or (2) submit signature sheets representing 2,000 intended plate purchases along with an application fee of $2,000 which must be credited towards the implementation of the organization's special plate. Sponsoring organizations must also submit to the DOL an application form provided by the DOL, along with a proposed license plate design, a marketing strategy, signatures of legislative sponsors and the actual legislation creating the plate series, and proof that the organization meets eligibility requirements.

If a sponsoring organization can fully prepay the start-up costs, the money received by the DOL must be placed in the newly created Special License Plate Trust Account until the special license plate legislation is enacted. If the legislation is not enacted, the money must be fully reimbursed within 30 days. Organizations may also withdraw their application at any time and will receive a full reimbursement within 30 days as well.

For sponsoring organizations who cannot fully prepay the start-up costs, the initial revenue generated from their special license plate's sales must be deposited into the Motor Vehicle Account until the state has been fully reimbursed for the implementation costs associated with their plate. Once the state is reimbursed, the House and Senate Transportation Committees, the sponsoring organization, and the State Treasurer must be notified of this fact and the DOL must commence distributing the plate revenues according to the law governing the individual plate series.

If the state is not reimbursed for the start-up costs within two years, the plate series will be placed in probationary status for a period of one year from that date. If the state is still not fully reimbursed at the end of the one-year probation period, the plate series will be discontinued.

The DOL must enter into a written agreement with the sponsoring organization that outlines prohibitions on the use of the plate revenue and requires the organization to expend the revenues in the state and for the benefit of the public.

Sponsoring organizations must submit an annual financial report by September 30 of each year to the DOL, detailing actual revenues and expenditures related to special plate sales.

If an organization ceases to exist, revenues generated from the sale of its plate series will be deposited into the Motor Vehicle Account.

A sponsoring organization may not redesign its plate series unless all of the inventory is sold or purchased by the organization itself. All redesign costs must be paid by the organization.

If a special license plate series is created outside of the SLPRB process, the sponsoring organization is still subject to all of the requirements mentioned above, that are applicable to organizations going through the SLPRB review process. Also, within 30 days of enactment, the organization must submit the following to the DOL: prepayment of the start-up costs or proof demonstrating that the organization cannot pre-pay the start-up costs, upon which time the revenue generated from the plate will be deposited into the Motor Vehicle Account until the state is fully reimbursed; a proposed license plate design; and a marketing strategy.

PART IV: Standard Background. A standard license plate background is no longer required. Rather, the plate background may vary in color and design, provided that the plate continues to be legible and clearly identifiable as a Washington plate.

PART V: Prior Special Plate Series Continuation. The DOL's authorization to discontinue special plate series based on the number of sales is maintained, but only for those plates created before January 1, 2003.

PART VI: Funding. If funding for this act is not provided in the Transportation Budget by June 30, 2003, the entire act is null and void.

Votes on Final Passage:

House	86	8	
Senate	49	0	(Senate amended)
House	65	32	(House concurred)

Effective: July 27, 2003

SHB 1597
C 195 L 03

Allowing holders of commercial drivers' licenses to delay a physical examination.

By House Committee on Transportation (originally sponsored by Representatives Mielke, Armstrong, Boldt, Orcutt, Wood, Woods, Kristiansen, Campbell, Hatfield, Sump and Schoesler).

House Committee on Transportation
Senate Committee on Highways & Transportation

Background: An applicant for a commercial driver's license (CDL) or CDL instruction permit must provide proof that he or she has undergone a physical exam that meets the federal requirements for commercial drivers. Thus, the statute links the two requirements of physical capacity and licensing. Under federal rules, a driver must provide proof of physical capacity and a valid CDL, but the two are separate requirements.

Summary: An individual applying for a CDL or a CDL instruction permit is not required to provide proof of a physical exam with his or her application.

An individual may not drive a commercial motor vehicle unless he or she is physically qualified to do so, and is carrying a copy of a medical examiner's certificate that states he or she is fit to drive a commercial vehicle. An exception is provided for drivers of farm vehicles.

It is a traffic infraction for a person to drive a commercial vehicle without having a copy of the medical examiner's certificate on his or her person. The penalty for the infraction is $250. This amount may be reduced to $50 if the individual can provide proof that he or she held a valid certificate at the time of the infraction.

Votes on Final Passage:

House	92	1
Senate	39	10

Effective: July 27, 2003

SHB 1605
C 104 L 03

Creating a statewide justice information network.

By House Committee on Technology, Telecommunications & Energy (originally sponsored by Representatives Ruderman, Anderson, Sullivan, Miloscia, Schual-Berke, Conway, O'Brien and Lovick).

House Committee on Technology, Telecommunications & Energy
Senate Committee on Judiciary
Senate Committee on Technology & Communications

Background: State and local law enforcement entities and courts store and track the justice information they generate. This information is entered into systems that allow law enforcement, prosecutors, courts, and corrections officials access to justice information for background checks. There is no single storage system or source for statewide criminal justice information.

Justice information is stored on several different systems. Law enforcement and criminal justice entities must search each of these systems to obtain criminal background and justice information on individuals. A complete, statewide justice information check requires separate searches of each individual system.

Summary: The Washington Integrated Justice Information Board (Board) is established to plan and develop a statewide justice information network.

The Board is composed of 22 members from law enforcement, local government, the courts, and the executive branch. The Board will coordinate and facilitate the development of an automated, single source for justice information that will deliver complete, accurate, and timely justice information.

The Board will report to the Governor, the Supreme Court, and the Legislature by September 1, 2004, and at least every two years thereafter with recommendations for changes and appropriations necessary to establish this system.

Votes on Final Passage:

House	93	0	
Senate	44	2	(Senate amended)
House	97	0	(House concurred)

Effective: July 27, 2003

SHB 1609
C 98 L 03

Requiring a plan to establish pilot regional correctional facilities.

By House Committee on Criminal Justice & Corrections (originally sponsored by Representatives O'Brien and Buck; by request of Sentencing Guidelines Commission).

House Committee on Criminal Justice & Corrections
Senate Committee on Children & Family Services & Corrections

Background: The Sentencing Reform Act of 1981 established the Sentencing Guidelines Commission (SGC), directing it to recommend to the Legislature a determinate sentencing grid for adult felonies. Over the years, the SGC has generally been responsible for the following:

- serving as a clearinghouse and information center for the collection, preparation, analysis, and dissemination of information on state and local adult and juvenile sentencing practices;
- reporting to the Governor and the Legislature on such issues as racial disproportionality in juvenile

and adult sentencing, capacity and resources issues of state and local juvenile facilities, and recidivism information on adult and juvenile offenders; and
- recommending community custody ranges for convicted felony offenders.

In addition, the SGC is charged with annually evaluating state sentencing policies with the goal of achieving consistency between sentencing ranges and standards for the multitude of offenses defined in state law.

Summary: The SGC must submit a plan to the Legislature by December 31, 2003, for establishing pilot regional correctional facilities. The plan must include, but is not limited to, the following:
- a plan for increasing the space availability in local and county jails for pretrial detainees;
- an efficient and effective plan for joint use of total confinement beds by local and state government;
- a description of proposed shared and revised jurisdiction and operational responsibility, including the possibility of establishing a regional corrections authority;
- a summary of proposed changes to the criminal code reflecting revised housing jurisdiction;
- a plan to account for the inmate population eligible for placement in the pilot regional correctional facilities which includes those inmates that are pretrial detainees, inmates serving sentences of 60 days to 24 months, and inmates serving terms of confinement totaling more than one year;
- a review of treatment services and programs intended to meet the needs of special inmate populations including drug and substance abuse, mental health, and special medical needs;
- an estimate of potential benefits to local and county jail operators and to the state, which could be realized by implementation of pilot programs;
- a proposed method for identifying pilot regional correctional facility sites;
- a methodology for evaluating the cost benefit of operation of pilot facilities; and
- recommendations for shared funding of the construction and operation cost of the facilities from state and local resources.

Votes on Final Passage:

House	96	0	
Senate	49	0	(Senate amended)
House	78	19	(House concurred)

Effective: July 27, 2003

HB 1612
C 107 L 03

Requiring notification to parents of mental health treatment options for a minor child.

By Representatives Hinkle, Dickerson, Delvin, Carrell, Pettigrew, Upthegrove, Eickmeyer, Edwards and Kessler.

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

Background: Under the common law, only parents have authority to consent to various forms of treatment for their children. In Washington, the common law parental authority has been modified by statute to give the minor child authority to consent to treatment in some situations. The common law has also been modified by statute to provide for specific procedures that parents and providers must follow when providing mental health treatment to minors.

Parents seeking mental health treatment for their minor children in Washington are not provided with any uniform materials informing them of the treatment options available, or procedures to follow, to obtain mental health treatment for their children.

Summary: The Department of Social and Health Services is required to produce, and make available, a written document explaining the statutorily available options for mental health treatment of a minor and the procedures to follow to utilize the treatment options.

If a parent seeks to have his or her child treated at a mental health evaluation and treatment facility, the facility must provide written and verbal notice to the parents of the statutorily available options for mental health treatment of a minor and the procedures to follow to utilize the treatment options.

Votes on Final Passage:

House	95	0
Senate	49	0

Effective: July 27, 2003

SHB 1619
C 103 L 03

Increasing penalties for driving while under the influence with children in the vehicle.

By House Committee on Judiciary (originally sponsored by Representatives Lovick, Delvin, Kirby, Dickerson, Ahern, Nixon, Wallace, Romero, Haigh, Sullivan, Pettigrew, Chase, O'Brien, Lantz, Quall, Miloscia, Berkey, Dunshee, Blake, Hudgins, Cooper, Moeller, Morrell, Schual-Berke, Edwards, Simpson, Bush, Eickmeyer, Murray, Kessler, Conway, Darneille, Kenney, Upthegrove and Rockefeller).

House Committee on Judiciary
Senate Committee on Judiciary

Background: The state's drunk driving law has an escalating system of penalties for persons convicted of driving while under the influence (DUI). Among those penalties are mandatory minimum periods of incarceration and electronic home monitoring. The lengths of these periods increase with the number of prior convictions a driver has and with the blood or breath alcohol concentration of the driver.

Courts are authorized in all cases of DUI, and are required in some, to order that when an offender's driving privileges are restored, he or she must have an ignition interlock device installed on any vehicle he or she drives.

In sentencing a DUI offender, the court is also directed to consider whether the driver caused any injury or damage, and whether there were passengers in his or her car.

Summary: If a person commits a DUI while there is a passenger under the age of 16 in the vehicle, the court must order 60 days of ignition interlock use in addition to any already mandatory use, or at least 60 days of interlock use if there is no mandatory requirement otherwise.

Votes on Final Passage:

House	95	0	
Senate	47	0	(Senate Amended)
House	97	0	(House concurred)

Effective: July 27, 2003

HB 1621
C 279 L 03

Modifying medical assistance provisions.

By Representatives Morrell, Pflug, Skinner, Cody, Cibborn and Schual-Berke; by request of Department of Social and Health Services.

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

Background: Personal care services are provided to eligible individuals through the Aging and Disability Services Administration within the Department of Social and Health Services (Department). The program is financed through the Federal Medicaid Program (Program). The Program requires that clients be assessed by a nurse to determine whether they have a medical condition that requires assistance with personal care tasks.

Summary: The Department will determine by rule which clients in the Personal Care Services Program have a health-related assessment or service planning need that requires registered nurse consultation or review. The requirement that plans of care must be reviewed by a nurse is removed and replaced with permissive language that allows for nurse review, but does not require it.

Votes on Final Passage:

House	91	0
Senate	44	0

Effective: July 27, 2003

SHB 1624
C 134 L 03

Modifying provisions of the Washington telephone assistance program.

By House Committee on Technology, Telecommunications & Energy (originally sponsored by Representatives Hudgins, Pettigrew, Crouse, Morris, Nixon, Linville and Sullivan; by request of Department of Social and Health Services).

House Committee on Technology, Telecommunications & Energy
House Committee on Appropriations
Senate Committee on Technology & Communications
Senate Committee on Ways & Means

Background: The Washington Telephone Assistance Program (WTAP) has been operating since 1987 to help provide telephone services to low-income residents of the state. The program provides a reduced monthly charge for basic telephone service, a 50 percent discount on connection fees, and waivers of deposits for local telephone service. The Department of Social and Health Services (DSHS) is the program administrator for the WTAP. The program is set to expire on June 30, 2003.

Households are eligible for the WTAP if they have an adult recipient of one or more of the public assistance programs administered by the DSHS. Individuals must apply through their local telephone company for WTAP assistance. The service for which partial reimbursement is paid must be the lowest available flat rate telephone service. The program currently serves approximately 119,000 households.

The Washington Utilities and Transportation Commission (WUTC) sets the excise tax which funds the program. The excise tax is limited by statute to no more than 14 cents on all switched telephone lines in the state. The current excise tax is set at 13 cents and is collected from 57 telephone companies. Twenty-four telephone companies provide service under the WTAP. The excise tax does not apply to wireless companies. In fiscal year 2002, the excise tax receipts collected from participating telephone companies were $5.49 million, and program costs were $6.42 million. The fund balance at the end of the program year was $5.8 million. The trend in recent years has been that program costs are greater than the

revenue collected. This trend is drawing down the fund balance over time.

The Federal Lifeline Program provides additional assistance toward a household's basic monthly telephone charges. The household pays the first $4 of its monthly local telephone service, the federal program provides up to $7.85 and the WTAP pays the remainder of the charge, which is typically a total of around $17. Connection charges are paid by the WTAP and the Federal Link Up Program. A household may receive WTAP assistance once a year. The federal program does not have a similar limitation.

Community voice mail is a computerized telephone answering system that is housed in a lead public agency and is shared by other community service agencies. It allows agencies to provide clients with an individual telephone number and a voice mail box where they can record a personal message and access their messages through use of a personal code from any location. The service is provided to those who do not have traditional telephone service.

Ten communities in Washington currently operate community voice mail programs through local community action agencies. They serve low-income and homeless people who are searching for employment or housing, or are working under other case management plans. In 2002 the Legislature allowed former recipients of community voice mail to transition to WTAP services for a limited period of time.

Summary: The Washington Telephone Assistance Program (WTAP) is extended indefinitely.

The program is modified to include community service voice mail as a WTAP service. The DSHS will contract with the Department of Community, Trade, and Economic Development (DCTED) to administer community voice mail services through local community action or community service agencies. The program is capped at 8 percent of the previous year's total revenue for the WTAP. Recipients may receive either local telephone service or community voice mail service but not both at the same time. The connection discount is no longer limited to once a year.

Votes on Final Passage:

House	95	0	
Senate	42	2	(Senate amended)
House	97	0	(House concurred)

Effective: July 1, 2003

HB 1631
C 74 L 03

Regulating fire protection sprinkler system contractors.

By Representatives McCoy, Cooper, Conway, Romero, Lovick, Simpson and Kenney.

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

Background: The state Director of Fire Protection (the State Fire Marshal) administers licensing requirements for persons who install fire sprinkler systems. To be licensed, a contractor must employ a holder of a certificate of competency issued by the State Fire Marshal, meet minimum insurance requirements, and pay a license fee.

Persons who install fire sprinkler systems may be subject to criminal penalties. A licensed contractor who maliciously constructs, installs, or maintains a fire sprinkler system in a way that threatens the safety of someone in a fire is guilty of a class C felony. An unlicensed person who constructs, installs, or maintains a fire sprinkler system in any dwelling other than an owner-occupied, single-family dwelling is guilty of a gross misdemeanor.

Summary: The State Fire Marshal must adopt rules defining civil infractions and fines applicable to fire protection sprinkler system contractors. A licensed contractor who commits these infractions is subject to civil penalties from $200 to $5,000. One who fails to obtain a certificate of competency is subject to civil penalties from $1,000 to $5,000.

Votes on Final Passage:

House	90	4
Senate	49	0

Effective: July 27, 2003

SHB 1634
C 200 L 03

Changing the residential property seller disclosure statement.

By House Committee on Commerce & Labor (originally sponsored by Representatives Conway, Chandler, Kenney, Berkey, Wood, Holmquist, Crouse, Tom, Edwards and Rockefeller).

House Committee on Commerce & Labor
Senate Committee on Financial Services, Insurance & Housing

Background: Sellers of residential real property must provide the buyer with a disclosure statement concerning the property unless the buyer waives the right to receive it. This disclosure requirement applies only to residential real property transfers. "Residential real property" means:

- real property with one to four dwelling units;
- residential condominiums and timeshares (except when subject to other disclosure laws); and
- mobile or manufactured homes that are personal property.

Sellers must disclose all known information concerning the property that is the subject of the sale. The statute specifies the form that must be used for the disclosure. The seller checks "yes" or "no" to questions and may explain some answers concerning the condition of the property at the time the form is completed. The disclosures pertain to:

- title;
- water;
- sewer/septic system;
- structural (roof, additions, remodeling, including information about defects in various amenities such as wood stoves and fireplaces);
- systems and fixtures (electrical, plumbing, heating and cooling, etc.);
- common interest (homeowners' association and/or assessments); and
- general (settling, soil or water problems, previous damage, hazardous materials).

If the seller fails to provide the disclosure statement as required, the buyer may rescind the transaction at any time until the transfer has closed. If the disclosure statement is delivered late, the right of the buyer to rescind the agreement to buy expires three days after receipt of a late delivered disclosure statement.

The seller and any real estate licensee involved in the transaction are not liable for any error, inaccuracy, or omission in the required disclosure if they had no actual knowledge of the mistake. The disclosure law, however, does not waive any rights or remedies of the buyer under common law, statute, or contract.

Summary: The Real Property Transfer Disclosure Statement (Statement) is revised for readability, to require certain additional disclosures, and to delete certain disclosures currently required. Internal references to the Statement are changed to "Seller Disclosure Statement."

There are numerous changes to the wording of the Statement to make it easier to read and understand and to make terminology usage consistent with that used by other state agencies.

Information on the following must be disclosed, whether apparent or not:

- the ownership of the well or water system;
- the source of the water for any irrigation systems;
- any on-site sewer system maintenance more frequent than once a year;
- any sewer costs beyond regular monthly bills;
- any basement leaking or flooding;
- any defects in the siding;
- any radio towers that may cause interference with telephone reception;
- any leased equipment or systems, such as a security system or satellite dish; and
- any alterations made to a manufactured home.

Information on the following is no longer required to be disclosed:

- any prior home inspections conducted; and
- any problems with standing water on the property.

The seller of a new home that has not been occupied does not have to complete the section of the disclosure statement concerning structural information.

An acknowledgment is added that real estate licensees are not responsible for any inaccuracies in the disclosure statement and that the disclosure statement is not intended to be included as a part of the written agreement between the parties.

Votes on Final Passage:

House	94	0	
Senate	47	1	(Senate amended)
House	98	0	(House concurred)

Effective: July 27, 2003

HB 1635
C 208 L 03

Revising reporting requirements for income and resources under the public assistance program.

By Representatives Pettigrew, Boldt, Kagi, Edwards and Kenney; by request of Department of Social and Health Services.

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

Background: If an individual receives public assistance or food stamp benefits for which he or she is not eligible, or in an amount greater than that for which he or she is eligible, the portion of the payment to which the individual is not entitled is a recoverable debt due to the state. A recipient of public assistance or food stamp benefits is required to notify the Department of Social and Health Services (DSHS) within 20 days of the receipt or possession of all income or resources not previously declared to the DSHS. The DSHS is required to advise applicants for assistance that failure to report as required, failure to reveal resources or income, and false statements will result in recovery by the state of any overpayment and may result in criminal prosecution.

Under federal reauthorization of the food stamp program, enacted in 2002, states are granted greater flexibility with regard to income and resources limits and reporting requirements under the program.

Summary: The requirement relating to notification of the DSHS by recipients of public assistance or food

stamp benefits of the receipt or possession of income or resources is changed. Recipients of cash benefits must notify the DSHS of changes to earned income as defined in state law and to liquid resources as defined in state law that would result in ineligibility for cash benefits. Recipients of food benefits must report changes in income that result in ineligibility for food benefits. All recipients must report these changes by the 10th of the month following the month in which the change occurs.

The DSHS is required to make a determination of eligibility within 10 days from the date it receives the reported change from the recipient. The DSHS is required to adopt rules consistent with federal law and regulations for additional reporting requirements.

Votes on Final Passage:

House	91	0	
Senate	48	0	(Senate amended)
House	97	0	(House concurred)

Effective: July 27, 2003

HB 1637
C 75 L 03

Promoting education on compulsive gambling.

By Representatives Wood, Conway, Kenney, Hudgins, McCoy, Moeller, Linville, Santos, Upthegrove and Rockefeller.

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

Background: The Gambling Commission, the Horse Racing Commission, and the Lottery Commission (Commissions) oversee all legal gambling in Washington.

One of the Commissions' responsibilities is to inform the public about problem gambling. The Commissions have jointly developed informational signs about problem gambling that are posted in all establishments that conduct any form of gambling.

Summary: The Commissions must jointly provide the public with information on problem gambling. The Commissions may contract with qualified entities for services to provide for public awareness and training on problem gambling.

Votes on Final Passage:

House	96	0
Senate	45	1

Effective: July 27, 2003

ESHB 1640
C 144 L 03

Authorizing water banking within the trust water program.

By House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Linville, Hinkle, Grant, Chandler, Eickmeyer and Hankins).

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

Background: The state may acquire a trust water right by donation, purchase, lease, or means other than condemnation. Trust water rights are placed in the state's trust water rights program and managed by the Department of Ecology (DOE). Two trust water rights programs, one for the Yakima River basin and the other for the rest of the state, are established in state law.

Trust water rights may be held or authorized for use for instream flows, irrigation, municipal, or other beneficial uses consistent with applicable regional plans. Trust water rights also may be used to resolve critical water supply problems. Statutory relinquishment provisions do not apply to trust water rights.

A trust water right has the same priority date as the water right from which it originated. The trust water right is junior in priority to the original right unless specified otherwise by agreement of the state and the original water right holder.

The DOE must determine that a trust water right will not impair existing water rights or the public interest before such a right may be exercised. The DOE also must stop or modify trust water right use if impairment occurs. The DOE's impairment decisions may be appealed to the Pollution Control Hearings Board.

Legislative findings in the trust water right statutes recognize the benefits of water use efficiency programs in addressing the state's water shortage for existing and future water needs. Legislative findings also address the importance of developing programs to increase the state's ability to manage state waters to resolve conflicts and satisfy water needs.

Summary: Authority for Water Banking. The DOE may use the trust water rights program in the Yakima River basin for water banking purposes. Water banking may be used for mitigation, future water supply needs, or any statutory beneficial uses consistent with terms established by the transferor. However, return flows from water rights authorized for any purpose must remain available as part of the Yakima River Basin's total water supply available and to satisfy existing rights for other downstream uses and users. "Total water supply available" is defined for water banking purposes consistent with the 1945 consent decree between the United States

and Yakima River basin water users and later court interpretations. Water banking also may be used to:

- document transfers of water rights to and from the trust water rights program; and
- provide a source of water rights the DOE can make available to third parties on a temporary or permanent basis for any statutory beneficial use.

The DOE may not use water banking to cause detriment or injury to existing rights, issue temporary rights for new potable uses, administer federal project rights, or allow carryover of stored water from one water year to another water year.

Administration and Transfer of Water Rights. The DOE, with the water right holder's consent, may identify trust water rights for administration for water banking purposes. Trust water rights established before the effective date of these provisions may be included. An application to transfer must indicate stream reach or reaches where the trust water right will be established and identify reasonably foreseeable future temporary or permanent beneficial uses for the water right upon transfer from the trust water rights program. If a future place of use, period of use, or other elements of the water right are not specifically identified at the time of transfer, another review will be necessary at the time of proposed transfer from the trust water rights program.

The DOE must transfer all or part of a water right being administered for water banking purposes from the trust water rights program to a third party when all of the following have occurred:

- the DOE receives a request to transfer;
- the request is consistent with the DOE's statutory transfer review and future temporary or permanent beneficial uses;
- the request is consistent with any condition, limitation, or agreement affecting the water right, including any transfer agreement executed at the time the water right was transferred to the trust water rights program; and
- the request is accompanied by and consistent with an assignment of interest from a person or entity retaining an interest in the trust water right to the party requesting transfer.

The water right transferred from the trust water rights program for water banking purposes retains the same priority as the underlying right. The DOE must issue documentation including specified information for the transferred water right to the new water right holder. The DOE's decisions on water bank transfers may be appealed to the Pollution Control Hearings Board or a superior court conducting a general adjudication.

Interpretation of Water Banking Provisions. The statutory water bank provisions must not be construed to cause detriment or injury to existing rights or the operation of the federal Yakima project to provide water for irrigation purposes, existing water supply contracts, or other existing water rights. These provisions also must not be construed to diminish existing rights or the total water supply available for irrigation or other purposes in the Yakima River basin, affect or modify the authority of a court conducting a general adjudication, affect or modify any person's or entity's rights under a water rights adjudication, or affect or modify any order of a court conducting a water rights adjudication. In addition, these provisions may not be construed to:

- affect or modify treaty or other federal rights of a federal agency, tribe, or other person or entity under state or federal law;
- affect or modify federal, state, or tribal, or any person's or entity's rights or jurisdiction over surface or ground water resources;
- change, interpret, or conflict with any interstate compact;
- alter, establish, or impair water or water-related rights of states, the United States, the Yakama Nation, or any other person or entity;
- affect or modify the rights of the Yakama Nation and management or regulation of water resources within the external boundaries of the Yakama Indian Reservation;
- affect or modify the settlement agreement between the United States and the State of Washington regarding federal reserved rights other than rights reserved by the United States for the Yakama Indian Nation; or
- affect or modify the rights of any federal, state, or local agency, the Yakama Nation, or any other person or entity with respect to unsettled claims in any water rights adjudication, including *State v. Acquavella*, or constitute evidence in any such proceeding.

Reports to the Legislature. The DOE must request comments on water banking from a variety of governmental entities and interest groups and submit a report on these comments and any recommendations for legislative action to the appropriate committees of the Legislature in the subsequent legislative session. By December 31 of every even-numbered year, the DOE must report to the appropriate committees of the Legislature on water banking activities and include: (1) an evaluation of the effectiveness of water banking; (2) a description of any statutory, regulatory, or other impediments to water banking in other areas of the state; and (3) an identification of other basins or regions that may benefit from authorization to use the trust water rights program for water banking purposes.

Legislative Findings. Legislative findings include voluntary water rights transfers and issuance of new water rights as acceptable methods to address current and future water needs. Legislative findings identify water banking as a way to facilitate voluntary water rights transfers and achieve a variety of resource management objectives.

Votes on Final Passage:

House	91	5	
Senate	47	0	(Senate amended)
House	98	0	(House concurred)

Effective: May 7, 2003

HB 1654
C 249 L 03

Borrowing money by domestic mutual insurers.

By Representatives Schual-Berke and Benson.

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

Background: The Insurance Commissioner (Commissioner) is responsible for the licensing and regulation of domestic mutual insurance companies. A domestic mutual insurer is an insurance company that is headquartered in this state, owned by its members, and operated in their interest. The members must be state residents and the policies issued by the insurer must cover lives, property, or risks located in Washington.

Money may be borrowed by a domestic mutual insurer for business purposes, but several restrictions apply:

- the transaction must be approved in advance by the Commissioner;
- interest on the loan cannot exceed 6 percent per annum;
- no commission or promotional expenses may be paid in relation to obtaining the loan; and
- the insurer's assets may not be pledged as collateral.

Summary: Two restrictions imposed on domestic mutual insurers with respect to obtaining loans are eliminated. First, the interest rate restriction is deleted and replaced with a provision requiring that the interest rate be fair and reasonable. Second, insurers are allowed to pay fair and reasonable commissions or promotional expenses incurred in connection with the acquisition of a loan.

Archaic language regarding accounting practices is deleted and replaced with the requirement that such practices comply with those set forth in the National Association of Insurance Commissioners' accounting procedures manual.

Votes on Final Passage:

House	93	0
Senate	46	0

Effective: July 27, 2003

SHB 1655
C 371 L 03

Providing for determination of disability for special parking privileges by advanced registered nurse practitioners.

By House Committee on Transportation (originally sponsored by Representatives Clibborn, Ericksen, Murray, Cooper, Morrell, Simpson, Armstrong, Rockefeller, Jarrett, Schindler, Mielke, Anderson, Wallace, Nixon, Shabro and Schual-Berke).

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

Background: In Washington, special parking privileges are extended to any person with a disability that limits his or her ability to walk and meets other statutorily established criteria, as determined by a licensed physician.

The Department of Licensing rules allow chiropractors, naturopaths, physicians, podiatrists, and advanced registered nurse practitioners (ARNPs) to determine whether a person qualifies for a special parking permit.

Summary: Advanced registered nurse practitioners may make determinations about whether an individual meets the statutory criteria to qualify for special parking privileges.

Votes on Final Passage:

House	94	0
Senate	45	0

Effective: July 27, 2003

SHB 1675
C 406 L 03

Updating civil trial provisions.

By House Committee on Judiciary (originally sponsored by Representatives Moeller, McMahan and Kirby).

House Committee on Judiciary
Senate Committee on Judiciary

Background: A chapter of Washington law deals with procedures for civil trials. Many of the provisions in this chapter have not been amended in more than 100 years. Many of the provisions have parallels or complements in the court rules. The sections in this chapter cover subjects such as notice of trial, impaneling juries, peremptory challenges, jury deliberations, and verdicts.

Summary: Various sections of the chapter in Washington law dealing with civil trial procedures are amended. Changes are made to update sections in light of modern court rules and courtroom practices. Some provisions are consolidated. Some provisions are amended to replace or remove ambiguous or archaic language.

Grammatical corrections are made and gender specific references are eliminated.

Examples of the changes include:

- An 1893 statute is amended to require a party to give the court clerk at least five days (instead of three days) notice before the day when scheduling is to be done that will set a trial date for the cause of action. This change is consistent with current court rules.
- A provision dealing with impaneling juries is clarified to make it explicit that selection of jurors "at random" applies only to selection of a panel of jurors from persons summoned for jury duty, and not to the selection from that panel of individual jurors who will hear the case.
- An 1881 statute dealing with peremptory challenges of prospective jurors is amended. A limitation on challenges that apparently applies only to plaintiffs is made applicable to any party in a case. Other changes are made to accommodate differing practices among courts regarding the number of potential jurors that are considered at any one time for jury selection by the parties and that are therefore subject to peremptory challenges at any one time.
- An 1881 statute dealing with challenges during jury selection is amended to reflect modern court reporter practices regarding record keeping.
- An 1881 statute is amended to remove the apparent authority (or duty) of a judge to deprive a jury of food and drink ("except water") during its deliberations.

Votes on Final Passage:

House	96	0
Senate	48	1

Effective: July 27, 2003

SHB 1693

C 6 L 03 E1

Revising the provision for increasing the direct care component rate allocation for residents with exceptional care needs.

By House Committee on Appropriations (originally sponsored by Representatives Cody, Skinner, Clibborn and Morrell; by request of Department of Social and Health Services).

House Committee on Appropriations

Background: There are 253 Medicaid-certified nursing home facilities in Washington providing long-term care services to approximately 12,900 Medicaid clients. The payment system for these nursing homes is established in statute and is administered by the Department of Social and Health Services (DSHS).

The rates paid to nursing facilities are based on seven different components. These components include rates paid for direct care, therapy care, support services, operations, property, financing allowance, and variable return.

In 1999 the Legislature authorized the DSHS to increase the direct care component of nursing home rates for residents who have unmet exceptional care needs, as determined by the DSHS in rule.

Additionally, the DSHS was authorized to adopt rules and implement a system of exceptional care payments for the therapy care component of the nursing home rate. These rates were authorized for individuals who are under age 65, not eligible for Medicare, and can achieve significant progress in their functional status if provided intensive therapy care services. These exceptional care payments were limited to no more than 12 facilities that have demonstrated excellence in therapy care, based upon criteria adopted in rule. Additionally, payments were subject to approval of a rehabilitation plan of care for each resident on whose behalf a payment is made.

The exceptional care program established by the DSHS generally serves three categories of clients: 1) those needing exceptional therapies due to such conditions as traumatic brain injury, multiple fractures, quadriplegia, paraplegia, and stroke; 2) individuals who are being maintained on ventilators and tracheostomies; and 3) children with complex medical conditions.

A December 2002 report to the Legislature by the DSHS on the efficacy of the exceptional care payment program indicated that the exceptional direct care payments for medically fragile children and ventilator/tracheostomy clients have resulted in stability for these clients and a cost savings to the state. The report indicated that these individuals are better served in nursing facilities than in hospitals, where they would reside in the absence of the program. However, the report indicated that the enhanced therapy care payments did not improve resident discharge placement or length of stay and that this pilot program was not cost effective.

The statute authorizing the exceptional payments for direct care and therapy care is scheduled to expire on June 30, 2003.

Summary: The DSHS is authorized to continue to set criteria for increased direct care and therapy care rates to nursing facilities that have residents with unmet exceptional care needs.

Restrictions limiting enhanced therapy care payments to no more than 12 facilities that have demonstrated excellence in therapy care are removed.

Votes on Final Passage:

House	91	0
First Special Session		
House	92	0
Senate	47	0

Effective: September 9, 2003

SHB 1694

C 280 L 03

Requiring the department of social and health services to inspect boarding homes at least every eighteen months.

By House Committee on Health Care (originally sponsored by Representatives Morrell, Campbell, Cody, Skinner, Clibborn and Dickerson; by request of Department of Social and Health Services).

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

Background: Boarding homes are currently inspected by the Department of Social and Health Services (Department) at least annually. The Department also inspects adult family homes. The inspection cycle for adult family homes is at least every 18 months.

Summary: The inspection cycle for boarding homes is changed from annually to at least every 18 months, with a 15-month average. The Department may delay inspections up to 24 months if the boarding home has had three consecutive inspections without a written notice of violations.

Votes on Final Passage:

House	95	0	
Senate	48	0	(Senate amended)
House	77	21	(House concurred)

Effective: July 27, 2003

2SHB 1698

C 185 L 03

Creating the nonhighway and off-road vehicle advisory committee.

By House Committee on Capital Budget (originally sponsored by Representatives Cooper, Anderson, Wood, Jarrett, O'Brien, Murray, Upthegrove, Pflug and Dunshee).

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

Background: The motor vehicle fuel tax provides revenues for the state transportation system including the construction and maintenance of state roads and highways. However, fuel tax paid on gasoline consumed for recreational purposes on nonhighway roads supports nonhighway and off-road vehicle recreational facilities. Examples of nonhighway purposes include driving a vehicle on a forest road or operating an all-terrain vehicle on a trail. The State Treasurer deposits 1 percent of the fuel tax revenue, based on a fuel tax rate of 18 cents per gallon, into the Nonhighway and Off-Road Vehicle Activities (NOVA) Account. Funds from the NOVA Account are distributed by statutory formula as follows:

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

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

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

The 2001 Capital Budget appropriated $175,000 to the IAC to contract with an independent entity to study the source and use of funds provided to off-road vehicle and nonhighway road recreational activities. The fuel use survey determined that 25.7 million gallons of motor vehicle fuel is estimated to have been consumed on nonhighway roads in the following categories:

- 20 percent for motorized recreation activities (riding motorbikes, ATVs, snowmobiles);
- 31 percent for nonmotorized related activities (hiking, mountain biking, horseback riding); and
- 49 percent for "other" (camping, sightseeing, hunting, fishing).

Summary: The NOVA Advisory Committee members must proportionally represent persons with recreational experience in areas identified in the most recent fuel use study. The NOVA Advisory Committee must review the existing funding distribution and provide recommendations to the Legislature by January 1, 2004. For this reason, the NOVA Advisory Committee must also include representation of county sheriffs, recreational land managers, the State Parks and Recreation Commission, the Department of Fish and Wildlife, the Department of Natural Resources, two members from each major caucus of the Senate appointed by the President of the Senate, and

two members from each major caucus of the House of Representatives appointed by the Speaker of the House of Representatives. Senate members must be selected from the Parks, Fish & Wildlife Committee and the Ways & Means Committee, and members from the House of Representatives must be selected from the Fisheries, Ecology & Parks Committee and either the Appropriations Committee or the Capital Budget Committee.

Votes on Final Passage:

House	57	38	
Senate	49	0	(Senate amended)
House	82	15	(House concurred)

Effective: July 27, 2003

SHB 1707

C 298 L 03

Revising environmental review provisions to improve the development approval process and enhance economic development.

By House Committee on Local Government (originally sponsored by Representatives Jarrett, Simpson, Shabro, Sullivan, Moeller, Berkey, Schindler, Linville and Anderson).

House Committee on Local Government
Senate Committee on Land Use & Planning

Background: ***Growth Management Act***. The Growth Management Act (GMA) requires a county and its cities to plan under its major requirements if the county meets certain population and growth criteria. Other counties may choose to plan under the major requirements of the GMA. The counties and cities required or choosing to plan under the GMA's major requirements are referred to as GMA jurisdictions. Currently 29 of the 39 counties and their cities are GMA jurisdictions.

All counties and cities have certain responsibilities under the GMA. GMA jurisdictions must fulfill numerous planning requirements, including adoption of county-wide planning policies and designation of urban growth areas. GMA jurisdictions also must adopt comprehensive plans with certain mandatory elements, such as land use, transportation, and utilities, and must adopt implementing development regulations.

State Environmental Policy Act. The State Environmental Policy Act (SEPA) requires local governments and state agencies to prepare an environmental impact statement (EIS) if proposed legislation or other major action may have a probable significant adverse impact on the environment. If it appears a probable significant adverse environmental impact may result, the proposal may be altered or its probable significant adverse impact mitigated. If this cannot be accomplished, an EIS is prepared. The responsible agency official has authority to make the threshold determination whether an EIS must be prepared.

Except for development projects that are exempt from SEPA requirements by statute or rule, the SEPA statutes generally require a project applicant to submit an environmental checklist. An environmental checklist includes questions about the potential impacts of the project on the built environment (e.g., land use, transportation, and utilities) and the natural environment (water, air, habitat, and wildlife). The checklist is reviewed by the SEPA lead agency (one of the agencies with permitting authority for the project) to determine whether the project is likely to have a significant adverse environmental impact. The lead agency also will review the checklist to determine if the applicant has identified mitigation sufficient to reduce environmental impacts.

After the checklist is reviewed, the lead agency issues its threshold determination. If a lead agency determines that a project is not likely to have a significant adverse environmental impact — or if mitigation sufficient to reduce these impacts has been identified — the lead agency issues a determination of nonsignificance (DNS) or a mitigated DNS (MDNS), which includes mitigation conditions for the project.

Alternatively, a lead agency issues a determination of significance (DS) if it determines that a project is likely to have a significant adverse environmental impact or mitigation cannot be identified to reduce these impacts. The DS triggers the requirement to prepare an EIS. The EIS is scoped to address only the matters determined to have a probable significant adverse environmental impact.

SEPA Categorical Exemptions. The Department of Ecology (DOE) is required to adopt rules to implement SEPA. One rule requirement is to define "categorical exemptions," which are categories of actions not considered major actions significantly affecting the quality of the environment. The DOE must specify by rule circumstances in which certain actions that potentially are categorically exempt will be subject to environmental review. Actions determined to be categorically exempt, however, are not subject to SEPA's environmental review or EIS requirements.

Project Review and SEPA Compliance. GMA jurisdictions may determine the analysis, review, and mitigation of adverse environmental impacts in GMA comprehensive plans and development regulations or other laws satisfy SEPA's procedural requirements for a development project if certain requirements are satisfied. These requirements include the GMA jurisdiction's:

- determination that the specific adverse environmental impacts of a project have been addressed by a comprehensive plan or development regulation provisions or other laws; and
- conditioning of the project on compliance with these requirements or mitigation measures.

A GMA jurisdiction that determines a project's impacts have been addressed in this manner may not impose additional mitigation under SEPA.

Summary: SEPA Categorical Exemptions. Counties and cities planning under the major requirements of the Growth Management Act (GMA jurisdictions) may establish categorical exemptions from the requirements of the State Environmental Policy Act (SEPA) to accommodate infill development. Locally authorized categorical exemptions may differ from the categorical exemptions established by the Department of Ecology (DOE) by rule. GMA jurisdictions may adopt categorical exemptions to exempt government action related to development that is new residential or mixed-use development proposed to fill in an urban growth area when:

- current density and intensity of the use in the area is lower than called for in the goals and policies of the applicable comprehensive plan;
- the action would not exceed the density or intensity of use called for in the goals and policies of the applicable comprehensive plan; and
- the applicable comprehensive plan was previously subjected to environmental analysis through an EIS according to SEPA.

Any locally adopted categorical exemption is subject to the DOE's rules specifying exceptions to the use of categorical exemptions.

Project Review and SEPA Compliance. GMA jurisdictions must determine that the analysis, review, and mitigation of adverse environmental impacts in GMA comprehensive plans and development regulations or other specified documents satisfy SEPA's procedural requirements for a development project if the statutory requirements are satisfied. GMA jurisdictions must issue determinations of nonsignificance (with or without mitigating conditions) under SEPA for projects under these circumstances. The DOE's rules regarding project specific impacts that may not have been adequately addressed apply to any such determination.

Votes on Final Passage:

House	96	0	
Senate	44	3	(Senate amended)
House	96	1	(House concurred)

Effective: July 27, 2003

HB 1712
C 215 L 03

Revising provisions relating to registration of sex offenders and kidnapping offenders.

By Representatives O'Brien, Mielke and Darneille; by request of Department of Community, Trade, and Economic Development.

House Committee on Criminal Justice & Corrections
Senate Committee on Children & Family Services & Corrections

Background: Persons convicted, or found not guilty by reason of insanity, of certain sex or kidnapping offenses must register with the county sheriff for the county of the person's residence. The person must provide certain information when registering, including his or her name, address (if any), date and place of birth, and place of employment.

A person required to register who is admitted to a public or private institution of higher education must provide notice of his or her intent to attend the institution to the sheriff for the county of the person's residence within 10 days of enrolling or by the first business day after arriving at the institution, whichever is sooner. The sheriff then must notify the institution's department of public safety and provide that department with the offender's registration information.

Summary: A person who gains employment at a public or private institution of higher education must provide notice of his or her employment to the sheriff for the county of the person's residence within 10 days of accepting employment or by the first business day after commencing work at the institution, whichever is sooner. A person whose enrollment or employment at a public or private institution of higher education is terminated must provide notice of the termination to the sheriff for the county of the person's residence within 10 days of the termination.

Votes on Final Passage:

House	93	0	
Senate	47	0	(Senate amended)
House			(House refused to concur)
Senate	46	0	(Senate amended)
House	98	0	(House concurred)

Effective: July 27, 2003

SHB 1721
C 282 L 03

Concerning dentistry.

By House Committee on Health Care (originally sponsored by Representatives Moeller, Boldt, Fromhold and Wallace).

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

Background: Dental schools generally require a college degree for admission and require four years of study to graduate. Study includes classroom instruction and laboratory work in the sciences as well as supervised treatment of patients during the last two years.

The Dental Quality Assurance Commission regulates the practice of dentistry in Washington. The prac-

tice of dentistry includes representing oneself as able to perform dental services, offering to perform dental services, operating an office for the practice of dentistry, or engaging in any practice that is included in dental school curricula. Unlicensed practice of dentistry is subject to penalties under the Uniform Disciplinary Act.

Summary: Students in accredited dental schools approved by the Dental Quality Assurance Commission may practice dentistry under the direction and supervision of a dentist licensed in Washington who is a faculty member at a dental school.

Votes on Final Passage:

House	93	0
Senate	48	0

Effective: July 27, 2003

SHB 1722
C 76 L 03

Limiting the taxability of certain internet transactions.

By House Committee on Finance (originally sponsored by Representatives Gombosky and Cairnes).

House Committee on Finance
Senate Committee on Technology & Communications

Background: A person doing business in this state is required to pay business and occupation tax (B&O) and must collect retail sales tax or use tax from the customer for retail sales. Questions have arisen about the meaning of "doing business in this state" in the context of electronic commerce, particularly in regard to out-of-state retailers who conduct business via internet computer hardware ("servers") located in this state. Out-of-state retailers who do business via internet or mail order are often referred to as "remote sellers." As a general rule, remote sellers do not have to pay B&O tax or collect sales tax unless they have a physical presence in this state. This physical presence requirement is met if the business has agents, employees, offices, warehouses, or other property in this state. A remote seller who owns internet servers in this state meets the physical presence requirement. If a remote seller does business through a third-party internet service provider with equipment in this state, the remote seller could be viewed as having an agent in this state, which would satisfy the physical presence requirement.

The Federal Internet Tax Freedom Act (ITFA) prohibits state and local governments from imposing multiple or discriminatory taxes on electronic commerce. Under the ITFA, a remote seller may not be required to collect sales tax merely because it conducts business through an online service provider that has equipment located in this state. The ITFA was enacted in 1998 and was originally set to expire in 2001. In 2001 Congress extended the ITFA until November 1, 2003.

The revenue departments of states that impose sales taxes have been working on a project known as the Streamlined Sales and Use Tax Agreement (Agreement). The Agreement is designed to simplify taxation for all retailers and increase the collection of taxes by remote sellers by providing uniform sales tax definitions, exemptions, and other rules to be adopted by the participating states. The Agreement will become effective when at least 10 states, comprising at least 20 percent of the total population of states with a sales tax, amend their tax laws to comply with the model tax laws set forth in the Agreement.

Summary: A remote seller making sales in Washington is not liable for B&O tax or required to collect sales or use tax if the remote seller's activities are conducted electronically via a website on computer equipment owned by a business that is not affiliated with the remote seller in this state, and the activities are limited to: (1) storage, dissemination, or display of advertising; (2) taking of orders; or (3) processing of payments. Businesses are affiliated for this purpose when one business or group of businesses has an ownership of 5 percent or more in another business or group.

These provisions expire when: (1) The United States Congress grants individual states the authority to impose sales and use tax collection duties on remote sellers; or (2) It is determined in a final court decision that a state may impose sales and use tax collection duties on remote sellers.

Votes on Final Passage:

House	95	0
Senate	45	4

Effective: July 27, 2003

2SHB 1725
C 318 L 03

Concerning catch record cards.

By House Committee on Appropriations (originally sponsored by Representatives Cooper and Upthegrove).

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

Background: The Washington Department of Fish and Wildlife (WDFW) requires recreational fishers to report their harvest activity on catch record cards for salmon, steelhead, sturgeon, halibut, and Dungeness crab. Catch record cards are provided free with the purchase of a license and must be used by recreational fishers to report each fish caught. Catch estimates generated by the catch record card system are used by the WDFW to manage fisheries.

The Director of the WDFW must establish by rule the conditions and fees for issuing duplicate licenses.

Fees for duplicate licenses, permits, tags, and stamps may not exceed the actual cost for issuing the duplicate license.

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

The WDFW manages selective fisheries allowing the harvest of hatchery salmon while protecting depressed stocks of wild salmon. Hatchery fish are marked by clipping their adipose fin, allowing fishers to differentiate hatchery fish from wild stocks.

Summary: Additional and duplicate catch record cards cost $10 each. Funds received from the sale of catch record cards must be deposited in the Wildlife Fund. Fees for duplicate catch record cards may exceed the cost of issuing the duplicate card.

Charter boat operators issuing temporary licenses must affix a charter boat stamp to each catch record card before a person fishes. Catch record cards issued with affixed temporary charter stamps are valid for two consecutive days and are not subject to the $10 charge.

The WDFW must include provisions for recording marked and unmarked salmon on catch record cards issued after March 31, 2004.

Votes on Final Passage:

House	91	3	
Senate	49	0	(Senate amended)
House	92	6	(House concurred)

Effective: April 1, 2004

EHB 1726

C 122 L 03

Changing provisions relating to an employer's indebtedness to a deceased person for unpaid wages, labor, or services performed.

By Representatives Haigh and Armstrong; by request of Office of Financial Management.

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

Background: Following an employee's death, the decedent's employer may be required to pay the decedent's survivors an amount due to the decedent. This requirement applies if:

- the amount is owed for the decedent's work;
- the surviving spouse requests payment of the amount due; and
- no executor or administrator of the decedent's estate has been appointed.

The employer is required to pay the amount due, but not an amount exceeding $2,500.

If the decedent's estate is subsequently probated, the amount exceeding $2,500 is released to the executor and distributed according to the order of distribution entered by the court.

Summary: The maximum amount that the state, as a decedent's employer, is authorized to pay the decedent's survivors for the decedent's work is increased. Initially the maximum amount is increased from $2,500 to $10,000. In subsequent biennia, the Director of the Office of Financial Management is permitted to adjust the maximum amount to levels not to exceed the percentage increase in the consumer price index for all urban consumers (CPI-U) for Seattle. Adjusted amounts must be rounded to the nearest $500 increment.

Other technical changes are made.

Votes on Final Passage:

House	92	0
Senate	48	0

Effective: July 27, 2003

HB 1727

C 272 L 03

Providing that no fee may be charged for death certificates of sex offenders supplied to law enforcement agencies.

By Representatives O'Brien and Kirby.

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

Background: Sex Offender Registration. Any individual who lives in Washington and has committed or been convicted of any sex offense or kidnapping offense must register with the sheriff of the county in which they reside. The individual must provide his or her name, address, date of birth, place of birth, place of employment, the crime for which convicted, aliases used, social security number, a photograph, and fingerprints. This information is sent to the Washington State Patrol to be entered into a central registry of sex offenders and kidnapping offenders. Depending on the offense, the registration requirement may last from 10 years to life.

Death Certificates. The Department of Health (Department) maintains the state's system of vital records and statistics in the Center for Health Statistics. The term "vital record" includes all birth certificates, marriage certificates, divorce certificates, fetal death certificates, and death certificates. The Department is required by statute to charge a $13 fee for certified

copies of records and $8 for a search of files when no copy is made.

Summary: The Department of Health must provide law enforcement agencies with certified copies of death certificates of registered sex offenders at no cost.

Votes on Final Passage:

House	96	0
Senate	47	0

Effective: July 27, 2003

SHB 1734
C 291 L 03

Updating the state building code.

By House Committee on Local Government (originally sponsored by Representatives Romero, Hinkle, Moeller, Delvin, Grant, Jarrett and Flannigan; by request of Department of Community, Trade, and Economic Development).

House Committee on Local Government
Senate Committee on Land Use & Planning

Background: The Washington State Building Code consists of a series of national model codes and standards that regulate the construction of residential, commercial, and industrial buildings and structures. The current State Building Code consists of the Uniform Building Code and the Uniform Building Code Standards; the Uniform Mechanical Code; the Uniform Fire Code and the Uniform Fire Code Standards; and the Uniform Plumbing Code and the Uniform Plumbing Code Standards.

The Uniform Building Code and the Uniform Mechanical Code are published by the International Conference of Building Officials (ICBO); the Uniform Fire Code is published by the International Fire Code Institute; and the Uniform Plumbing Code and Plumbing Code Standards are published by the International Association of Plumbing and Mechanical Officials (IAPMO).

The State Building Code Council (SBCC) is responsible for the adoption and maintenance of the uniform model codes that comprise the State Building Code. The SBCC is required to regularly review updated versions of the uniform model codes and amend the uniform model codes as appropriate. All decisions to adopt or amend the uniform model codes must be made prior to December 1 of any year and do not take effect before the end of the regular legislative session the next year.

The International Code Council (ICC) was established in 1994 as a nonprofit organization that develops a single set of comprehensive and coordinated national model construction codes. The founding organizations of the ICC are the International Conference of Building Officials (ICBO), the Building Officials and Code Administrators International, Inc. (BOCA), and the Southern Building Code Congress International, Inc. (SBCCI). These organizations represent the three major model code writing organizations and have developed the model codes used in most areas of the country.

Summary: The Washington State Building Code is revised to replace specific codes and standards published by the International Conference of Building Officials with codes and standards published by the International Code Council, Incorporated.

- The Uniform Building Code is replaced by the International Building Code and International Residential Code. The International Residential Code does not take precedent over provisions regulating the electrical code, the plumbing code, or the energy code.
- The Uniform Mechanical Code is replaced by the International Mechanical Code, except that the standards for liquified petroleum gas installations are the NFPA 58 and ANSI 2223.1/NFPA 54.
- The Uniform Fire Code and Uniform Fire Code Standards are replaced by the International Fire Code.

The State Building Code Council is directed to review all nationally recognized standards and to incorporate minimum safety requirement into the State Building Code. Language requiring each county to administer and enforce fire code standards in unincorporated areas of the county is revised to include the International Fire Code. This revision also applies to administration and enforcement by any fire protection district or political subdivision that assumes responsibility for fire protection activities.

Votes on Final Passage:

House	82	12	
Senate	41	8	(Senate amended)
House	87	11	(House concurred)

Effective: July 27, 2003

SHB 1738
C 77 L 03

Providing for recoupment of state employee salary and wage overpayments.

By House Committee on Commerce & Labor (originally sponsored by Representatives Haigh and Armstrong; by request of Office of Financial Management).

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

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

In *State v. Adams*, 107 Wn.2d 611 (1987), the Department of Transportation sought a declaratory judgment that the state had authority to recoup overpayments of wages by deducting "reasonable amounts" from employee paychecks until the amounts owed were recovered. The Supreme Court held that, in the absence of statutory procedures to protect an employee from an erroneous claim, the state may collect overpayments of wages only by bringing a civil action against the employee. The Supreme Court explained that deducting amounts from employee paychecks without notice and an opportunity to be heard violated employee rights to due process.

Summary: The state, as an employer, is authorized to recover overpayments of wages to an employee either by making deductions from subsequent payments of wages to the employee or by a civil action. In general, deductions may not exceed 5 percent of the employee's disposable earnings per pay period. However, deductions may be for the full amount still outstanding from payments of wages for a final pay period.

The state may make deductions only in accordance with a specified process for reviewing and recovering overpayments of wages. This process is as follows:

- The state must notify the employee. This notice must include, among other items, the amount of the overpayment and the basis for the claim. This notice may be served upon the employee in the same manner as a summons in a civil action or be mailed to the employee at the last known address by certified mail, return receipt requested.
- Within 20 calendar days after receiving the notice, the employee may request that the state review its finding that an overpayment occurred. If the employee does not request such review, the employee may not further challenge the overpayment, and has no right to further agency review, an adjudicative proceeding, or judicial review.
- Upon receipt of an employee's request for review, the state must review the employee's challenge to the overpayment. The state must then notify the employee of its decision regarding the employee's challenge. This notice must be mailed to the employee at the last known address by certified mail, return receipt requested.
- The employee may request an adjudicative proceeding governed by the Administrative Procedure Act. This application must include the original notice of overpayment and state the basis for contesting the notice. This application must be served on and received by the state within 28 calendar days of the employee's receipt of the state's decision regarding the employee's challenge. This application must be mailed to the state by certified mail, return receipt requested. If the employee does not request such a proceeding, the amount of the overpayment must be deemed final and the state may recoup the overpayment.
- If the employee requests an adjudicative proceeding, the presiding officer must determine the amount of the overpayment.
- If the employee fails to attend or participate in the adjudicative proceeding, an administrative order declaring the amount claimed in the notice to be assessed against the employee and subject to collection action by the state.

Votes on Final Passage:

House	93	0
Senate	47	0

Effective: July 27, 2003

HB 1753
C 140 L 03

Concerning nursing practices in community-based and in-home care.

By Representatives Cody, Pflug, Skinner, Clibborn, Morrell, Benson and Edwards; by request of Department of Social and Health Services and Department of Health.

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

Background: Nursing assistants may either be registered or certified by the Department of Health depending on their education and training. Nursing assistants may assist in providing care to individuals as delegated by and under the supervision of a licensed or registered nurse. Nursing assistants working in community-based settings may also provide certain nursing care tasks upon completing the Department of Social and Health Services' basic core nurse delegation training.

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 the exception of delegations to nursing assistants working in community-based care settings with patients that are in a stable and predictable condition, registered nurses may not delegate tasks requiring substantial skill, the administration of medications, or piercing or severing tissues. The administration of medications by injection, sterile procedures, and central line maintenance may never be delegated to a nursing assistant in a community-based care setting.

Summary: In addition to simple care tasks, registered nurses in in-home care settings may delegate nursing care tasks to nursing assistants only when the individual

patient is in stable and predictable condition. This includes tasks requiring substantial skill and the administration of medications. In-home care settings include an individual's temporary or permanent place of residence other than an acute care hospital, skilled nursing facility, or community-based care setting. It is clarified that home care agencies are not considered home health agencies simply because they have nursing assistants providing delegated nursing care tasks.

Registered nurses working for a home health or hospice agency are allowed to delegate the application, instillation, or insertion of medications to a registered or certified nursing assistant under a plan of care.

Nursing assistants may not perform delegated tasks requiring the piercing or severing of tissues.

Nursing assistants are allowed to provide personal aide services for an adult with a functional disability under the adult's direction.

The Department of Health must adopt rules regarding policies governing nurse delegation practices for in-home service agencies

The authority for individuals to provide medication assistance is clarified as including in-home care settings. Before an individual may provide medication assistance, he or she must obtain an oral or written communication from an authorized practitioner stating that the patient requires medication preparation assistance. The prohibition on assisting with intravenous or injectable medications does not apply to prefilled insulin syringes.

Terminology is updated and technical changes are made, including correcting statutory cross-references.

Votes on Final Passage:

House	90	0	
Senate	45	0	(Senate amended)
House	97	0	(House concurred)

Effective: May 7, 2003

ESHB 1754
C 397 L 03

Concerning the slaughter, preparation, and sale of certain poultry.

By House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Eickmeyer, Schoesler, Sump, Hunt, Grant, Pettigrew, Haigh, McDermott, Blake, Quall, Rockefeller and Romero).

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

Background: *State Laws:* Food Processing. Under the state's Food Processing Act (Act), it is unlawful for a person to operate a food processing plant or to process foods without obtaining a license from the Department of Agriculture (WSDA). For this purpose, "food processing" is defined broadly. It is the handling or processing of any food in any manner in preparation for sale for human consumption, but does not mean merely washing or trimming fresh fruit or vegetables that are being prepared or packaged for sale in their natural state.

Other provisions of the Act allow the WSDA to require a person who is processing food for retail sale to be licensed if the person is not subject to a local health permit, license, or inspection. These provisions also expressly allow the WSDA to waive the licensure requirement for a milk processing plant that is licensed under the milk laws in certain circumstances.

Custom Slaughter. The state's custom slaughter laws establish licensing and facility requirements for persons who slaughter and prepare uninspected meat as a service for the owner of the animal or meat. The meat animals covered by these laws are cattle, swine, sheep and goats, and ratites such as ostriches, emus, and rhea.

Federal Poultry Inspection Rules: Federal rules administered by the Food Safety and Inspection Service of the U. S. Department of Agriculture require the inspection of the processing of poultry products. Exempted from the federal inspection requirement is a poultry producer with respect to the poultry the producer raised on his or her own farm that is slaughtered by the producer. To qualify for the exemption, the producer cannot slaughter more than 1,000 poultry during a calendar year, the producer must not buy or sell the poultry products of others, and the poultry cannot move in interstate commerce.

Summary: A special, temporary permit, in lieu of a license, is established under the state's Food Processing Act. It is for the slaughter, preparation, and sale of 1,000 or fewer pastured chickens in a calendar year by the agricultural producer of the chickens for the sale of the whole raw chickens by the producer directly to the ultimate consumer at the producer's farm. The fee for the permit is $75.

The WSDA must adopt by rule requirements for the permit which must be generally patterned after those established by rules of the State Board of Health for temporary food service establishments, but must be tailored specifically to these activities. The requirements must include those for: cooling procedures, when applicable; sanitary facilities, equipment, and utensils; clean water; washing and other hygienic practices; and waste and wastewater disposal. The rules must also identify the length of time the permit is valid, which must be adequate to accommodate the seasonal nature of the permitted activities. In adopting rules, the WSDA must also carefully consider the economic constraints on the regulated activity.

The WSDA must conduct such inspections of the permitted activities as are reasonably necessary to ensure compliance with permit requirements.

These activities are expressly exempted from the state's custom slaughter laws.

Votes on Final Passage:

House	97	0	
Senate	49	0	(Senate amended)
House	98	0	(House concurred)

Effective: July 27, 2003

SHB 1755
C 299 L 03

Creating alternative means for annexation of unincorporated islands of territory.

By House Committee on Local Government (originally sponsored by Representatives Kirby, Romero, Conway, Jarrett, Rockefeller and Morrell).

House Committee on Local Government
Senate Committee on Land Use & Planning

Background: Growth Management Act. Enacted in 1990 and 1991, the Growth Management Act (GMA) establishes a comprehensive land use planning framework for county and city governments in Washington. Counties and cities meeting specific population and growth criteria are required to comply with the major requirements of the GMA. Counties not meeting these criteria may choose to plan under the GMA. Twenty-nine of 39 counties, and the cities within those 29 counties, are required to or have chosen to comply with the major requirements of the GMA (GMA jurisdictions).

GMA jurisdictions must designate urban growth areas (UGAs) within which urban growth must be encouraged and outside of which growth may occur only if it is not urban in nature. The designated UGAs must include areas and densities sufficient to permit the urban growth that is projected to occur in the county or city for the succeeding 20-year period.

The GMA also requires six western Washington counties (i.e., Clark, King, Kitsap, Pierce, Snohomish, and Thurston counties) and the cities within those counties to establish a review and evaluation "buildable lands" program. The purpose of the program is to determine whether a county and its cities are achieving urban densities and to identify reasonable measures, other than adjusting UGAs, that will be taken to comply with the requirements of the GMA.

City Governance. Cities may be classified as code cities or non-code cities and towns. Code cities have broad statutory home rule authority in matters of local concern. Code cities and non-code cities and towns have separate statutory requirements for governance and operation.

Annexation of Islands of Territory. The legislative body of a non-code city or town planning under the GMA as of June 30, 1994, may resolve to annex unincorporated islands of territory that are located within the city or town. The territory must contain residential property owners and must be within the same county and UGA as the annexing city or town. Additionally, the territory proposed for annexation: (1) must contain fewer than 100 acres and have at least 80 percent of its boundaries contiguous to the city or town; or (2) may be of any size if at least 80 percent of its boundaries are contiguous to the city or town if the area existed (as unincorporated territory) before June 30, 1994.

While the provisions for annexation by code cities are similar, code cities may resolve to annex unincorporated islands of territory extending into neighboring counties if the proposed annexation territory contains fewer than 100 acres and is at least 80 percent contiguous to the boundaries of the annexing city.

Code and non-code cities and towns must satisfy public hearing and notification requirements, and an ordinance providing for annexation is subject to referendum.

Summary: Jurisdictions subject to the "buildable lands" review and evaluation program of the GMA (Clark, King, Kitsap, Pierce, Snohomish, and Thurston counties and the cities within those counties) may annex qualifying territory through one of two alternative annexation methods. Legislative bodies of eligible jurisdictions may initiate the annexation proceedings through negotiated interlocal agreements. The interlocal agreements must be commenced through county and city or town legislative action. Specific public notice, hearing, and procedural requirements must be satisfied prior to completing an annexation under the alternative methods.

Territory qualifying for annexation under the first alternative method must be within a designated city or town urban growth area (UGA) and must be at least 60 percent contiguous to the annexing city or town or to one or more cities or towns. A UGA may include within its boundaries urban service areas or potential annexation areas designated for specific cities or towns within the county.

If the first alternative method does not result in an adopted or executed annexation agreement, the "buildable lands" counties may initiate interlocal agreement negotiations with cities or towns meeting specified criteria to annex territory within a UGA that is at least 60 percent contiguous to one or more cities or towns.

Following adoption and execution of an interlocal agreement by the participating jurisdictions, the city or town legislative body must adopt an ordinance providing for the annexation. The annexation ordinance is subject to referendum for 45 days after passage.

If more than one city or town adopts interlocal agreements providing for annexation of the same territory, an annexation election must be held in the area to be annexed. If a majority of the voters voting on the proposition approve the annexation, the area must be annexed

to the jurisdiction receiving the highest number of votes in favor of the annexation. Costs for an annexation election must be borne by the county.

Votes on Final Passage:

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

Effective: July 27, 2003

SHB 1759

C 24 L 03

Providing financial institution law parity.

By House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Schual-Berke and Benson).

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

Background: Banking Regulation Generally. Banks and mutual savings banks (thrifts) are chartered either by the state in which they are located or by the federal government. The institution chooses the type of charter under which it will operate. If the institution is state-chartered, both the state banking regulatory authority and the Federal Deposit Insurance Corporation (FDIC) are authorized to regulate and examine the institution. In this state, the Department of Financial Institutions (DFI) is the regulator of state-chartered banks and thrifts. National banks are regulated and examined by the Office of the Comptroller of the Currency (OCC) as well as the FDIC. Federally chartered thrifts are regulated by the Office of Thrift Supervision (OTS) and the FDIC regarding federally insured deposits.

Under both state and federal laws, the various types of financial institutions are subject to different regulations regarding organization, governance, and business activities. The regulations governing financial institutions include grants of powers and authorities, that may be exercised by an institution with respect to corporate governance and operational matters. Generally, the types of powers and authorities held by banks and thrifts chartered in Washington are defined by reference to federal regulations promulgated by the OCC and the FDIC.

Banks and Thrifts Contrasted. State regulations pertaining to banks and thrifts are somewhat different with respect to corporate organization, investments, mergers, as well as the powers and authorities conferred upon each type of financial institution. Unlike a bank, a thrift is operated for the benefit of its members and may be mutually owned by its members, though many are not. Additionally, the powers and authorities of thrifts are slightly more extensive than those of banks. For example, there is no maximum limit on the amount of any single loan that may be issued by a thrift, whereas banks do have a maximum limit. Also, a state chartered thrift is granted parity with the powers and authorities granted to state banks, but not vice versa.

Parity with Federal Financial Institutions. Under state law, both state-charted banks and thrifts are explicitly granted parity with federally chartered banks regarding the powers and authorities they may exercise in the course of doing business. Specifically, state banks and thrifts are granted the same powers and authorities conferred – as of August 31, 1994 – upon federal banks doing business in this state. State banks and thrifts may also exercise the same powers and authorities granted to federal banks after that date, but only if the DFI determines that the exercise of such powers is in the interests of the public and maintains fair competition between the respective types of institutions.

Interest Rate Regulation/Federal Preemption. Washington has relatively straightforward usury statutes that generally limit interest rates to a maximum of either 12 percent or an amount determined by a formula tied to the Federal Reserve System. However, federal law preempts state usury statutes with respect to most transactions involving state and federally- chartered financial institutions. Under federal law, financial institutions are allowed to charge the highest interest rate allowed for any lender in that state for a similar transaction, and allows out-of-state financial institutions may charge the highest rate allowed in their home state. In other words, out-of-state institutions can export the highest allowable rate in their home states to other states, which has the effect of raising the interest rate limits for other institutions as well. Therefore, state usury statutes are not applicable to most transactions involving either state or federal financial institutions.

Summary: Parity Between State Banks and Thrifts. State banks and thrifts are explicitly given equivalent powers and authorities. However, in order for a bank to exercise the powers and authorities of a thrift, the bank must provide 30 days notice to the DFI, which must then make the following findings regarding the exercise of such powers and authorities:

- that the exercise is in the best interests of consumers and the general public; and
- that the exercise maintains the fairness of competition as well as parity between banks and thrifts.

Parity Between State and Federal Banks. A state bank may exercise all powers and authorities conferred to federal banks doing business in this state as of the effective date of the act. In order for a state bank to exercise the powers and authorities conferred to federal banks, notice must be given to the DFI, which must make the following findings regarding the exercise of such powers and authorities:

- that the exercise is in the best interests of the public; and

- that the exercise maintains the fairness of competition as well as parity between banks and thrifts.

Parity Between State Thrifts and Federal Banks. The parity provision regarding state thrifts and federal banks is identical to the parallel state bank provision, except that state thrifts are granted parity with all federal banks, not just those doing business in this state.

Parity Between State Thrifts and Federal Thrifts. A state thrift may exercise all powers and authorities conferred upon federal thrifts as of the effective date of the act. A state thrift may exercise the powers and authorities conferred upon federal thrifts, provided notice is given to the DFI and specified findings are made.

Interest Rates. State financial institutions are explicitly allowed to charge the maximum interest rate allowable for federally chartered financial institutions.

Merger of Thrifts with Financial Holding Companies. State thrifts are granted the authority to merge with a financial holding company.

Votes on Final Passage:

House	91	1
Senate	47	0

Effective: July 27, 2003

ESHB 1782

C 7 L 03 E1

Creating a competitive grant program for nonprofit youth organizations.

By House Committee on Capital Budget (originally sponsored by Representatives McCoy, Alexander, Dunshee, Bush, Murray, Jarrett, McIntire, Priest, Veloria, Lantz, Eickmeyer, Upthegrove, Kagi, Conway, Kenney, Darneille, Wood, Lovick, Santos, Simpson, Hudgins and Edwards).

House Committee on Capital Budget
Senate Committee on Ways & Means

Background: Washington has traditionally provided support for capital facilities and programs to local governments and other entities through a variety of competitive grant and loan programs. Examples of such programs funded through the state's Capital Budget include: the Washington Wildlife and Recreation Program; the Public Works Trust Fund; the Housing Trust Fund; the Heritage program; and the Building for the Arts program.

In the 1997 legislative session, a competitive grant program called the Community Services Facilities Program (CSFP) was established in statute for nonresidential capital projects for social service organizations. The CSFP is administered by the Department of Community, Trade and Economic Development (DCTED) to assist nonprofit organizations in acquiring, constructing, or rehabilitating facilities used for the delivery of nonresidential social services.

Individual nonprofit youth organizations have received funding through the CSFP in prior biennia. The 1999-01 Capital Budget specifically provided $1.5 million from the CSFP's appropriation for the development, renovation, and expansion of Boys and Girls Clubs in Washington.

Summary: The DCTED is directed to establish a process for soliciting and prioritizing projects that assist nonprofit youth organizations in acquiring, constructing, or rehabilitating facilities used for the delivery of nonresidential services, excluding outdoor athletic fields. Eligible projects must have a major recreational component and must have an educational or social service component.

The DCTED must evaluate and rank project applications in consultation with a citizen advisory committee and submit a prioritized list of recommended projects to the Governor and the Legislature in their biennial capital budget request beginning with the 2005-07 biennium. Capital budget requests for the program must not exceed $2 million in any biennium and a $500,000 list of alternate projects is permitted.

State assistance may not exceed 25 percent of the total project cost. The non-state portion of the total project cost may include cash, the value of real property when acquired solely for the purpose of the project, and in-kind contributions.

The DCTED may not sign contracts with organizations for funding assistance until the Legislature has approved a specific list of projects. The contracts must require the repayment of both principal and interest costs of the grant if the capital improvements are used for purposes other than that specified in the grant.

Votes on Final Passage:

House	91	0
First Special Session		
House	92	0
Senate	46	1

Effective: September 9, 2003

2SHB 1784

C 281 L 03

Improving coordination of services for children's mental health.

By House Committee on Appropriations (originally sponsored by Representatives Darneille, Upthegrove, Chase, Linville, Wallace, Kagi, Kessler, Kenney, Schual-Berke, Wood, Dickerson, Santos, Simpson and Morrell).

House Committee on Children & Family Services
House Committee on Appropriations
Senate Committee on Children & Family Services & Corrections

Background: The 2001-02 Biennial Budget directed the Joint Legislative Audit and Review Committee (JLARC) to study children's public mental health services in Washington. The proviso was limited in scope and asked JLARC to make recommendations as appropriate for the improvement of services and system performance.

On August 7, 2002, JLARC completed its study on children's mental health. The JLARC recommendations included the following:

1. The DSHS, as a coordinating agency, should identify issues that limit its ability to coordinate children's mental health programs, and should make changes to support cross program collaboration and efficiency.
2. The DSHS Mental Health Division (MHD) should continue to implement and collect reliable mental health cost service data to support an outcome reporting system specific to children's mental health.
3. The Medical Assistance Administration (MAA) and MHD should jointly revise the early periodic screening diagnosis and treatment plan (EPSDT) to reflect the current mental health system structure.
4. The Office of the Superintendent of Public Instruction (OSPI) and the DSHS/MHD should identify examples of mental health and education systems coordination and share this information among other school districts, Regional Support Networks, and other agencies.
5. The Legislature should update statutes to reflect a focus on improvement of cost, service, and outcome data and eliminate the requirement to maintain an inventory of children's mental health services.

Summary: The DSHS is required to implement the following recommendations within available funds:

1. The DSHS shall identify internal business operation issues that limit the agency's ability to meet statutory intent to coordinate existing categorical children's mental health programs and funding.
2. The DSHS shall collect reliable mental health cost, service, and outcome data specific to children. This information must be used to identify best practices and methods of improving fiscal management.
3. The DSHS, in consultation with the Office of Financial Management (OFM), is required to develop a plan for the early periodic screening diagnosis and treatment services and revise the plan as necessary to conform to changes in the system structure.
4. The DSHS and the OSPI shall jointly identify school districts where mental health and education systems coordinate services and resources to provide public mental health care for children. These agencies shall work together to share information about these approaches with other school districts, regional support networks, and state agencies.

The DSHS is required to submit an initial report on the status of the implementation of these above recommendations to the Governor and Legislature by June 1, 2004. A final report must be provided no later than June 1, 2006.

The requirement for the DSHS to maintain an inventory of children's mental health services is eliminated.

Votes on Final Passage:

House	94	0	
Senate	44	0	(Senate amended)
House	98	0	(House concurred)

Effective: July 27, 2003

SHB 1785

C 204 L 03

Limiting disclosure of client information.

By House Committee on Health Care (originally sponsored by Representatives Cody, Pflug, Skinner, Schual-Berke, Dickerson and Edwards).

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

Background: In 2001 the Legislature increased the level of credentialing from certification to licensure for certain types of counselors. These providers include marriage and family therapists, mental health counselors, and social workers.

The Uniform Health Care Information Act protects the disclosure of patient information regarding any care, service, or procedure that a health care provider uses to diagnose, treat, or maintain a patient's physical or mental condition. There are heightened protections for patient information related to sexually-transmitted diseases and AIDS, chemical dependency, and mental health.

Summary: Mental health counselors, marriage and family therapists, and social workers must maintain the confidentiality of disclosure statements and other information received from their clients and used to provide professional services to them. There are exceptions to this requirement when: (1) the client authorizes release of the information; (2) the client waives the privilege by bringing charges against the licensee; (3) the Secretary of Health subpoenas the records; (4) the licensee must report child abuse, vulnerable adult abuse, or testimony and records at a probable cause hearing regarding involuntary detention; or (5) the licensee reasonably believes that disclosure will avoid or minimize an imminent danger to the client or another person.

Votes on Final Passage:

House	92	0
Senate	49	0

Effective: July 27, 2003

HB 1786
C 127 L 03

Modifying mobile home landlord-tenant provisions.

By Representatives Veloria and Santos.

House Committee on Trade & Economic Development
Senate Committee on Financial Services, Insurance & Housing

Background: The Mobile Home Landlord-Tenant Act (Act) governs the relationship between the owners of the mobile home parks (landlords) and the owners of the manufactured and mobile homes (tenants) who lease space in a mobile home park. The Act provides a variety of protections for tenants, including protecting a tenant's right to sell their mobile home in the park and limiting the landlord's ability to evict a tenant.

A "mobile home park" or "manufactured home community" is defined as real property rented to others for the placement of two or more mobile homes, manufactured homes, or park models. A "park model" is defined as a recreational vehicle intended for permanent or semi-permanent installation and habitation.

A landlord is prohibited from preventing entry or requiring the removal of a mobile home, manufactured home or park model on the sole basis of the home's age. The statute provides, however, that the landlord may exclude or expel a home for any other reason, including fire and safety concerns.

A tenant may assign his or her rental agreement to any person who purchases the tenant's mobile home, manufactured home or park model, provided that certain conditions are met. One of the conditions is that the landlord may require that the mobile home meet applicable fire and safety standards.

Eviction of a "recreational vehicle" not used as a permanent resident in a mobile home lot is governed by the law on forcible entry and unlawful detainer and by the Residential Landlord Tenant Act.

Summary: The definition of "park model" is changed to a "recreational vehicle that is intended for permanent or semi-permanent installation and used as a residence" rather than "intended for permanent or semi-permanent installation and habitation."

A landlord may exclude or expel a mobile home, manufactured home, or park model for failure to comply with fire, safety or other local ordinances and state laws.

A landlord may require a mobile home, manufactured home, or park model to meet state or local fire and safety laws if an enforcement officer has issued a notice of violation of the fire or safety standard to the tenant and those violations have remained uncorrected. Upon correction of the violations, the landlord's refusal to permit a transfer is deemed withdrawn.

Eviction of mobile homes, manufactured homes, and recreational vehicles used as a residence is governed by the Act.

Votes on Final Passage:

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

Effective: July 27, 2003

ESHB 1787
C 135 L 03

Establishing a 211 network.

By House Committee on Children & Family Services (originally sponsored by Representatives Pettigrew, Boldt, Moeller, Miloscia, Jarrett, Priest, Dickerson and Santos).

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

Background: Abbreviated dialing codes enable callers to connect to a location in the phone network that otherwise would be accessible only via a seven- or 10-digit telephone number. Among abbreviated dialing arrangements, "N11" codes are three-digit codes of which the first digit can be any digit other than one or zero, and the last two digits are both one. There are only eight possible N11 codes, making N11 codes among the scarcest of numbering resources.

The Federal Communications Commission has exclusive jurisdiction over numbering administration, including the assignment of N11 codes. The current assignments for N11 codes are as follows:

- 2-1-1: Assigned for community information and referral services;
- 3-1-1: Assigned nationwide for non-emergency police and other government services;
- 4-1-1: Unassigned, but used virtually nationwide by carriers for directory assistance;
- 5-1-1: Assigned for traffic and transportation information;
- 6-1-1: Unassigned, but used broadly by carriers for repair service;
- 7-1-1: Assigned nationwide for access to Telecom Relay Services;
- 8-1-1: Unassigned, but used by local exchange carriers for business office use; and
- 9-1-1: Universal emergency number for wireline and wireless telephone service.

The current assignment of the 211 abbreviated dialing code originated with a petition filed by the Alliance of Information and Referral Systems, the United Way of America, United Way 211 (Atlanta, Georgia), United Way of Connecticut, Florida Alliance of Information and

Referral Services, Inc., and Texas I & R (Information and Referral) Network for nationwide assignment of an abbreviated calling code for access to community information and referral services. The petition cited a range of human needs not addressed by either the 911 code or police non-emergency 311 code, such as housing assistance, maintaining utilities, food, counseling, hospice services, services for the aging, substance abuse programs, and dealing with physical or sexual abuse.

The Washington Information Network 211 (WIN 211) is a private, 501(c)(3) not-for-profit corporation dedicated to creating a comprehensive statewide information and referral system. Member organizations of WIN 211 currently provide information and referral services in their communities.

Summary: The 211 dialing code is created as the official state dialing code for public access to information and referral for health and human services and information about access to services after a natural or non-natural disaster.

Before a state agency or department that provides health and human services establishes a new public information telephone line or hotline, the state agency or department must consult with WIN 211 about using the 211 system to provide public access to the information to be made available.

Only a service provider approved by WIN 211 may provide 211 telephone services. WIN 211 is required to approve 211 service providers, after considering the following:

- the ability of the proposed 211 service provider to meet the national 211 standards recommended by the Alliance of Information and Referral Systems and adopted by the National 211 Collaborative;
- the financial stability and health of the proposed 211 service provider;
- the community support for the proposed 211 service provider;
- the relationships with other information and referral services; and
- such other criteria as WIN 211 deems appropriate.

A 211 Account (Account) is created in the State Treasury. Moneys in the Account may be spent only after appropriation. The Account will include any funding for this purpose appropriated by the Legislature, private contributions, and funding from all other sources. Expenditures from the Account must be limited to the implementation and support of the 211 system.

WIN 211 is required to study, design, implement, and support a statewide 211 system. Activities eligible for assistance from the 211 Account include, but are not limited to:

- creating a structure for a statewide 211 resources database that will meet the Alliance for Information and Referral Systems standards for information and referral systems databases and that will be integrated with local resources databases maintained by approved 211 service providers;
- developing a statewide resources database for the 211 system;
- maintaining public information available from state agencies, departments, and programs that provide health and human services for access by 211 service providers;
- providing grants to approved 211 service providers for the design, development, and implementation of 211 for its 211 service area, which is defined as an area of the state identified by WIN 211 as an area in which an approved 211 service provider will provide 211 services;
- providing grants to approved 211 service providers to enable them to provide 211 service on an ongoing basis; and
- providing grants to approved 211 service providers to enable the provision of 211 services on a 24-hour-per-day seven-day-a-week basis.

WIN 211 is required to annually report to the Legislature and the Department of Social and Health Services beginning July 1, 2004.

Votes on Final Passage:

House	81	15
Senate	46	0

Effective: July 1, 2003

SHB 1788

C 301 L 03

Regulating job order contracting for public works.

By House Committee on State Government (originally sponsored by Representatives Miloscia, Armstrong and Haigh).

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

Background: Differing procedures are established for state agencies and various local governments to award contracts for public works projects.

Several state agencies and local governments are authorized to use alternative public works contracting procedures to award contracts on certain public works contracts of a very large dollar value. One alternative procedure is the design-build procedure. Another alternative procedure is the general contractor/construction manager procedure. Authority to use these alternative procedures terminates July 1, 2007.

Agencies authorized to use alternative public works contracting procedures include the Department of General Administration, the University of Washington, Washington State University, cities with a population in excess of 75,000 (and any public authority chartered by

such city under RCW 35.21.730 through 35.21.755), counties with a population of greater than 450,000, public utility districts with revenues in excess of $23 million per year, port districts with revenues in excess of $15 million per year, and school districts proposing projects that are considered and approved by the school district project review board. The School District Project Review Board is authorized to approve up to 10 projects valued between $5 million and $10 million.

Summary: Public bodies authorized to use the alternative public works contracting procedures, including any school district, may award contracts using a new procedure called a job order contract for public works. Under a job order contract, a contractor agrees to perform an indefinite quantity of public works jobs as defined under individual work orders over a fixed period of time. The authority to use job order contracts terminates on July 1, 2007.

Process to award a job order contract. A public entity must determine that the job order contract process will eliminate time-consuming and costly aspects of traditional public works contracting before using this process. Once this determination is made, a request for proposals is published describing a number of details, including a description of the scope of job order contracts, identification of the specific unit price book that will be used to determine accepted industry standards for materials, labor, equipment, overhead, and bonds, and the minimum contracted amount committed to the selected job order contractor. The public body must establish a committee that evaluates proposals and selects the most qualified finalists. The most qualified finalists submit final proposals, including sealed bids based upon the identified unit price book.

The public body must award the contract to the firm submitting the highest scored final proposal using evaluation factors and the relative weight of factors published in the public request for proposals. A protest period of 10 days is required following the announcement of the apparent successful proposal to allow a protester to file a detailed statement of grounds for the protest. The public body must promptly determine the merits of the protest and provide a written determination. A job order contract may not be executed until at least two business days following the decision on the protest.

The job order contractor is required to submit a plan that would equitably spread subcontracting opportunities to certified women and minority businesses. The public body will not issue any work orders until the job order contractor's plan has been approved.

Restrictions on job order contracts. A job order contract may not be executed for an initial contract term of more than two years, but may be renewed or extended for an additional year. All job order contracts must be executed before July 1, 2007, but a job order contract existing at that date may be extended or renewed after that date.

A public entity may not have more than two job order contracts in effect at any one time. The maximum total dollar amount that is awarded under a job order contract may not exceed $3 million in the first year, $5 million over the first two years, or $8 million over the three-year period if the contract is renewed or extended.

A work order for a single project may not exceed $200,000, and a public body may not issue more than two work orders equal to or greater than $150,000 in a 12-month period.

No more than 20 percent of the dollar value of the work order may consist of items that are not included in the unit price book. At least 80 percent of the job order contract must be subcontracted to entities other than the job order contractor.

A new permanent, enclosed building space that is constructed under this process may not exceed 2,000 square feet.

Special provisions are made to measure damages to a contractor if the public entity fails to order a minimum amount of work indicated in its request for proposals. No other remedies are allowed. The damages are equal to the minimum amount of work that is indicated in the request for proposals, less the amount of work actually done, multiplied by an appropriate percentage for overhead and profit contained in the general conditions for Washington State facility construction.

Individual work orders are treated as separate contracts. Therefore, requirements for performance bonds, retainage requirements, and interest paid on public contracts apply to each work order rather than the job order contract.

The requirement that contractors list their subcontractors within one hour after bid submittal does not apply to requests for proposals for job order contracts or for individual work orders.

Job order contractors are required to pay prevailing wages for all work that otherwise would be subject to those requirements. Contractors must pay the prevailing wage in effect at the onset of each work order rather than the rate in effect at the time a job order contract is issued.

School district demonstration projects. Changes are made to the alternative public works statute to increase the number of school district demonstration projects from 10 to 16 and to increase the value of these projects from over $5 million to over $10 million. Two additional projects may be authorized at a value of between $5 million and $10 million.

Votes on Final Passage:

House	94	0	
Senate	47	0	(Senate amended)
House			(House refused to concur)
Senate	46	0	(Senate amended)
House	98	0	(House concurred)

Effective: July 27, 2003

SHB 1805

C 97 L 03

Changing the number of district court judges.

By House Committee on Judiciary (originally sponsored by Representatives O'Brien, Nixon, Kagi, Tom, Sommers and Clibborn).

House Committee on Judiciary
Senate Committee on Judiciary

Background: The number of district court judges in each county is set by statute. Any change in the number of judges in a county must be made by the Legislature after receiving a recommendation from the Supreme Court. The recommendation must be based on an objective workload analysis conducted by the Administrative Office of the Courts (AOC). The objective workload analysis takes into account available judicial resources and the caseload activity of the court.

King County has 26 statutorily authorized district court judge positions. An objective workload analysis conducted by the AOC indicates a projected need for 20.2 judicial officers in 2003. Clark County has five statutorily authorized district court judges. The objective workload analysis for Clark County indicates a need for 0.5 additional judicial officers in the county.

The county must pay all costs associated with a district court judge position. The county may phase in a newly authorized judge position over a two-year period.

District court judges are elected and hold office for a term of four years. A vacancy in a judge position is filled by appointment by the county legislative authority until the next general election.

Each county has a district court districting committee responsible for developing the district court districting plan. The districting plan establishes district court districts within the county according to standards set out in statute. The districting plan must be approved by the county legislative authority and must include provisions on: the boundaries of each district; the number of judges to be elected from each district; the location of courtrooms and records of each court and any other locations where the court will sit; the number and location of district court commissioners; and the departments into which each court will be organized.

Amendments to the district court districting plan must be submitted to the county legislative authority for approval. An amendment that would result in shortening the term or reducing the salary of any district court judge may not be effective until the next regular election for district judge.

Summary: The number of statutorily authorized district court judges in King County is reduced from 26 to 21 and the number of authorized district court judges in Clark County is increased from five to six.

A process for changing the number of district court judges is established. The Legislature may change the number of district court judges only in a year in which the quadrennial election for district court judges is not held.

A vacancy in a district court judge position must remain vacant if the number of remaining judges in the county is equal to or greater than the number of judge positions authorized in statute for that county.

A district court districting committee must consider the results of an objective workload analysis conducted by the AOC when determining the number of judges to be elected in each district court district. The districting committee must meet within 45 days of a change in the number of judges to be elected in each district. Amendments to the plan concerning the number of judges elected in a district must be submitted to the county legislative authority within 90 days, and adopted within 180 days, of the date of the statutory change in the number of judges.

Votes on Final Passage:

House	91	1	
Senate	48	0	(Senate amended)
House	95	2	(House concurred)

Effective: May 7, 2003

EHB 1808

PARTIAL VETO

C 82 L 03

Requiring standards of review before changing lines of instruction at research universities.

By Representatives Kenney, Cox, Fromhold, Priest, Berkey, Jarrett, Gombosky, Morrell, Chase, McCoy and Lantz.

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

Background: Exclusive Lines of Study. Generally the state does not dictate which degree programs or major lines of study a public institution of higher education may offer. These decisions are left to the governing boards of each institution.

There are a few exceptions where state laws stipulate that only the University of Washington (UW) or Washington State University (WSU) may offer degrees in particular lines of study. One example is electrical engineering.

Electrical Engineering. In 2002 WSU granted 76 bachelor's degrees in electrical and computer engineering. The UW granted about 135 degrees in electrical and 220 degrees in computer science and engineering. Both

universities also have graduate programs. Independent institutions also offer electrical engineering programs: Seattle Pacific University, Walla Walla College, and Seattle University. Gonzaga University offers both electrical and computer engineering. Total enrollment in these programs is approximately 400 students.

HECB Program Approval. The Higher Education Coordinating Board (HECB) is required to approve the creation of a new degree program at any public four-year institution. There are no statutory criteria for this review. According to HECB guidelines, institutions are required to provide the following types of information:

- objective data regarding the need for the program;
- plans for how student achievement and program effectiveness will be assessed;
- program budget and expected enrollment; and
- assurances that expert reviewers attest to the quality of the program.

Summary: Electrical engineering as a major line of study is no longer restricted only to the UW or WSU.

Whenever the exclusive lines of study for both the UW and WSU are changed (including the change made in this act), the HECB must conduct an independent analysis of a request by a higher education institution to offer a new degree program.

The analysis includes information from a variety of sources, including that submitted by the institution. Such information includes: a) detailed evidence of why the program is justified, including the size and scope of student, employer, and community demand; b) the feasibility and cost of using existing public or private capacity for the program; c) projected future enrollment; and d) any other information the HECB may require regarding demand, need, and cost-effectiveness.

The HECB will submit a complete analysis of such a proposal to the House and Senate higher education committees prior to making its final determination on the program.

Votes on Final Passage:

House	95	0
Senate	29	17

Effective: July 27, 2003

Partial Veto Summary: The Governor vetoed the section that required the HECB to examine certain information and provide an analysis to the higher education committees of the Legislature whenever an institution seeks approval to offer a degree program previously restricted only to the UW or WSU.

VETO MESSAGE ON HB 1808

April 21, 2003

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, Engrossed House Bill No. 1808 entitled:

"An Act relating to establishing standards of review in order to change lines of instruction at research universities;"

This legislation allows any public university to apply to the Higher Education Coordinating Board to offer an electrical engineering degree.

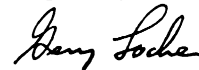
Section 2 requires the Higher Education Coordinating Board to conduct an analysis of any proposed electrical engineering program using a variety of sources of information. Information reviewed must include: detailed evidence of student, employer and community demand for the program; the feasibility of using existing public or private program capacity rather than opening a new program; and projected future enrollment. This section also requires that the Higher Education Coordinating Board submit its analysis to the higher education committees of the legislature before making a final decision regarding program approval.

I encourage the Higher Education Coordinating Board to follow the criteria set forth in section 2 of this bill. However, current statute already requires the Higher Education Coordinating Board to review and approve all proposals for new degree programs. Therefore, section 2 is not necessary.

For these reasons, I have vetoed section 2 of Engrossed House Bill No. 1808.

With the exception of section 2, Engrossed House Bill No. 1808 is approved.

Respectfully submitted,



Gary Locke
Governor

SHB 1813

C 136 L 03

Expanding employment opportunities for people with disabilities.

By House Committee on State Government (originally sponsored by Representatives Miloscia, Boldt, Linville, Edwards, Romero, Cody, McDermott, Haigh, Hunt, Moeller, Ruderman, Santos, Rockefeller, Simpson, Conway, Wood and Kenney).

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

Background: The Department of General Administration (GA) purchases materials, supplies, services, and equipment for all state institutions, state elective offices, and institutions of higher education. However, an agency may make its purchases directly from a vendor if it has notified the GA that such purchases are more cost-effective.

All purchases, whether by the GA or by the agency itself, must be made using a competitive bidding process. A formal sealed bidding process must be used for purchases of $35,000 or more, except in various specified circumstances, such as emergency purchases, single-source purchases, purchases involving special facilities

or services, and purchases involving market conditions. Purchases from $3,000 to $35,000 may be made under a less formal process using telephone or written quotations from at least three vendors. Purchases below $3,000 may be made without using a competitive bidding process and are made based upon buyer experience and market knowledge. These dollar figures are adjusted for inflation every two years.

State agencies are authorized to negotiate directly with sheltered workshops and programs of the Department of Social and Health Services (DSHS) to purchase products and services manufactured or provided by such entities. These purchases are to be at the fair market price, as determined by the GA using the last comparable bid or price paid for similar products or services and increases in labor costs since the last price was paid.

Purchases by the Legislature are exempt from these requirements, including the competitive bidding requirements.

State agencies and the Legislature are required to make purchases of goods and services that are produced or provided in whole or part from class II inmate work programs operated by the Department of Corrections through contract, unless the GA finds the articles or products do not meet reasonable requirements, are not of equal or better quality, or the price is higher than otherwise available.

Summary: State agencies and departments are authorized to make purchases of products and services from community rehabilitation programs of the DSHS which operate facilities serving disadvantaged persons and persons with disabilities, and from businesses owned and operated by persons with disabilities. Restrictions are made to limit purchases to only those facilities that have achieved or met certain goals in expanding employment for disadvantaged persons and persons with disabilities.

A vendor in good standing is defined as a business owned and operated by persons with disabilities or a community rehabilitation program that has not had a breach of contract due to quality or performance provisions and has achieved or made progress in enhancing employment opportunities for disadvantaged persons and persons with disabilities. The Office of Minority and Women Business Enterprises will certify to the GA all vendors in good standing.

The GA is required to identify in its vendor registry all vendors in good standing. Every 12 to 15 months vendors are asked to update information on the registry, including a description of the products and services the vendor provides and the applicable Washington commodity codes of its products. The updated information is dispersed by the GA to at least one purchasing official in each state agency. The GA will, in turn, notify vendors of all anticipated contract renewals and solicitations for the next 12 months.

All vendors in good standing are included in the customary solicitation process. When agencies enter into negotiations with the lowest responsible bidder, they must also negotiate with, and may consider for award, the lowest responsible bidder that is a vendor in good standing.

An advisory subcommittee is appointed by the Governor's Committee on Disability Issues and Employment to determine if entities seeking to qualify as vendors in good standing have achieved or made progress toward enhancing employment opportunities for disadvantaged persons and persons with disabilities. The subcommittee includes 10 members:

- three current or former clients of a community rehabilitation program, one of which must be a person with a developmental disability;
- one who is a guardian, parent, or other relative of a current client or employee of a community rehabilitation program;
- one who is nominated by a community rehabilitation program;
- one who represents a business owned and operated by persons with disabilities;
- one who is designated by the Developmental Disabilities Council;
- one who is a member of the Governor's Committee on Disability Issues and Employment;
- one who is designated by the Secretary of the DSHS; and
- one who is designated by the Director of the Department of Services for the Blind.

An entity seeking to be listed as a vendor in good standing must provide conclusive evidence that, during the previous 12 months, it has met at least half of the established measurable goals regarding its work force, or has improved with respect to that category from one year ago. Measurable goals include statistics on the numbers and percentages of disadvantaged persons and persons with disabilities who:

- are working in integrated settings;
- are working in individual supported employment settings;
- have transitioned to less restrictive employment settings;
- are earning at least the state minimum wage;
- are serving in supervisory capacities within the entity;
- are serving in an ownership capacity or on the governing board of the entity;
- are receiving wages, salaries, and related employment benefits comparable to persons without disabilities; and
- have a reasonable, achievable, and written career plan developed by the entity.

Entities must pay a non-refundable application fee of: 1) not more than $500; 2) not more than 2 percent of

the face amount of any contract awarded; or 3) both fees to establish or renew qualification as a vendor in good standing. Fees established are to recover costs incurred by the GA and by the subcommittee.

The GA and the Governor's Committee on Disability Issues and Employment are required to prepare and issue a report to the Governor and the Legislature describing the effect of these provisions on enhancing employment opportunities for disadvantaged persons and persons with disabilities.

These provisions expire December 31, 2007.

Votes on Final Passage:

House	94	0
Senate	49	0

Effective: July 27, 2003

HB 1815
C 118 L 03

Defining security account under the uniform transfer on death security registration act.

By Representatives Schual-Berke and Benson.

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

Background: The Uniform Transfer on Death Registration Act (Act) has been adopted by Washington, as well as a majority of the other states. The Act allows the owner of a security account to register the account and designate a beneficiary to take possession of the account upon the owner's death without going through the probate process. The primary purpose of the Act is to provide for the non-probate transfer of specially registered securities.

Investment management or custody accounts held by banks or trust companies are not included in the Act's definition of security account and are therefore subject to the probate process following the death of the owner.

Summary: The definition of security account is expanded to include cash equivalents, as well as an investment management or custody account with a trust company or a trust division of a bank with trust powers. Accordingly, such accounts are subject to the provisions of the Act that allow an owner to register a designated beneficiary and thus avoid the probate process.

Votes on Final Passage:

House	92	0
Senate	49	0

Effective: July 27, 2003

SHB 1826
C 268 L 03

Requiring additional personal history information from customers of international matchmaking organizations.

By House Committee on Criminal Justice & Corrections (originally sponsored by Representatives Veloria, McMahan, O'Brien, Kenney, Boldt, Mielke, Santos, Hudgins, Upthegrove, Simpson and Conway).

House Committee on Criminal Justice & Corrections
Senate Committee on Judiciary
Senate Committee on Children & Family Services & Corrections

Background: Foreign social referral agencies, also known as international matchmaking organizations, bring together approximately 4,000 to 6,000 couples annually, who eventually marry and petition for immigration of the female spouse. Many of the female spouses come to the United States from the Philippines and from the independent states of the former Soviet Union.

The Immigration and Naturalization Service estimates there are over 200 international matchmaking organizations operating in the United States. Federal law requires these organizations to provide accurate information about immigration laws to prospective foreign spouses in their native language.

In Washington, international matchmaking organizations must notify foreign prospective spouses that background check and marital history information is available for prospective spouses who are Washington residents. Notice must be in writing in the recruit's native language. Upon a request for such information, the organization must notify the Washington resident prospective spouse. The Washington resident must obtain a background check report from the Washington State Patrol, and must provide the report and his or her marital history information to the organization.

The organization must forward the background report and marital history information to the foreign prospective spouse. Organizations may not knowingly provide continued services to facilitate further interaction between the prospective spouses until the organization has received the information from the Washington client and forwarded it to the foreign client.

Summary: International matchmaking organizations doing business in Washington State must notify foreign recruits stating that they may have access to background and personal (instead of solely marital) information about a Washington State resident using the matchmaking services. In addition, international matchmaking organizations must make personal (instead of solely marital) history information available to foreign recruits that request such information.

Personal history information includes the person's current marital status, the number of previous marriages,

annulments, and dissolutions for the person, whether any pervious marriages occurred as a result of receiving services from an international matchmaking organization; any founded allegations of child abuse or neglect; and whether there are any existing antiharassment protection orders, domestic violence protection orders, and domestic violence no-contact orders against the person.

Votes on Final Passage:

House	94	0	
Senate	46	2	(Senate amended)
House	97	0	(House concurred)

Effective: July 27, 2003

ESHB 1827

PARTIAL VETO

C 398 L 03

Requiring information on meningitis immunization for college students.

By House Committee on Health Care (originally sponsored by Representatives Moeller, Skinner, Fromhold, Schoesler, Romero, Sullivan, Hankins, Hunt, Morrell, Delvin, Cox, Kenney, Hinkle, Linville, Wood, Cody, Dunshee, Schual-Berke, Sehlin and Simpson).

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

Background: Meningitis is an infection and inflammation of the membranes and fluid surrounding the brain and spinal cord. Meningitis is most frequently caused by either bacteria or viruses. The bacterial variety is usually the most serious. Meningitis must be treated immediately to lessen the effects of any potential complications.

The meningococcus bacteria causes a highly contagious form of meningitis. Meningococcal meningitis can lead to brain damage, hearing loss, and learning disabilities. It kills about 300 people in the United States every year. The Centers for Disease Control and Prevention (CDC) reports that between 1991 and 1997 the number of cases of meningococcal meningitis doubled for people 15 to 24 years old. Common living situations for people in these age groups, such as college dormitories, boarding schools, and military bases, pose a higher risk for outbreaks of the disease. In 2000 the CDC recommended that college freshmen, especially those living in dormitories, receive information about meningococcal disease and the benefits of vaccination.

Notifiable conditions are diseases and conditions that, under the Department of Health (Department) rules, must be reported to either a local health officer or the Department to protect public health. Health care providers, laboratory directors, and health care facilities all have a duty to report occurrences of these diseases and conditions. Health care providers and facilities must report an occurrence of meningococcal meningitis to the local health department immediately and laboratories must do so within two days.

Summary: Higher education institutions, except for community and technical colleges, that maintain residential campuses must provide information regarding meningococcal disease to all enrolled, matriculated, first-time students. Community and technical colleges must only provide such information to students who are offered on-campus or group housing. The information must include: symptoms, risks, and treatment of the disease; current meningococcal vaccination recommendations from the Centers for Disease Control and Prevention; and locations where the vaccination can be received.

Neither higher education institutions nor the Department are required to provide the vaccine to any student. Higher education institutions that have an electronic enrollment or registration program must provide the information electronically and have the student acknowledge receipt prior to completing electronic enrollment or registration.

Votes on Final Passage:

House	98	0	
Senate	47	0	(Senate amended)
House			(House refused to concur)
Senate	45	0	(Senate amended)
House	98	0	(House concurred)

Effective: July 1, 2004

Partial Veto Summary: The Governor vetoed the requirement that institutions of higher education that offer electronic enrollment or registration provide meningococcal information to students electronically.

VETO MESSAGE ON HB 1827-S

May 20, 2003

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 subsection 4, Engrossed Substitute House Bill No. 1827 entitled:

"AN ACT Relating to provision of meningococcal immunization information to first-time students by degree-granting postsecondary educational institutions;"

This bill requires all public and private higher education institutions with student housing on campus to provide information to each new student about meningococcal disease. This requirement is consistent with the Centers for Disease Control recommendations to colleges and public health departments that they provide general information to students about the disease.

However, subsection 4 is unduly prescriptive in directing institutions that offer electronic enrollment to provide the meningococcal disease information to students as part of their electronic enrollment and requiring that students acknowledge receipt of the information in order to complete enrollment.

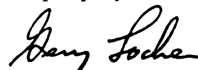
Many higher education institutions in Washington and across the nation have been providing this information to their students for years, without a mandate that students acknowledge receipt. Our higher education institutions also provide information on other critical public health issues, such as AIDS/HIV and alcohol abuse without a requirement that students acknowledge

receipt. Creating a mandatory sign-off from students creates an unnecessary administrative burden on our higher education institutions.

For these reasons, I have vetoed subsection 4 of Engrossed Substitute House Bill No. 1827.

With the exception of subsection 4, Engrossed Substitute House Bill No. 1827 is approved.

Respectfully submitted,



Gary Locke
Governor

SHB 1829

PARTIAL VETO

C 412 L 03

Regulating postretirement employment in the public employees' retirement system and the teachers' retirement system.

By House Committee on Appropriations (originally sponsored by Representatives Bailey, Sehlin, Talcott, Kristiansen, Clements, Tom, Pearson, McMahan, Benson, Woods and Pflug).

House Committee on Appropriations
Senate Committee on Ways & Means

Background: Retired members of Plan 1 of the Public Employees' Retirement System (PERS) or the Teachers' Retirement System (TRS) who re-enter employment with an eligible employer within one month of retiring are subject to a benefit reduction. The reduction is equal to 5.5 percent of the monthly benefit amount for every eight hours worked that month and is applied until such time as the retiree remains absent from eligible employment for at least one full calendar month.

A member must separate from service in order to qualify for a retirement allowance. Separation from service is defined in PERS and TRS to mean that the member has no written agreement to resume work with their employer after entering retirement. After entering retirement status, a member may begin his or her retirement allowance on the first day of the month following the month that he or she applies for retirement benefits. The date that retirement benefits begins is referred to as a member's "accrual date."

Both PERS and TRS provide sanctions for the filing of false statements to the Department of Retirement Systems (DRS). A person who files a false record or false statement to the DRS in any attempt to defraud the retirement systems is guilty of a gross misdemeanor in PERS and a felony in TRS.

Retirees from PERS 1 or TRS 1 who have been separated from service for one calendar month after their accrual date may work up to 1,500 hours per year without a reduction in pension benefits. Once the 1,500 hour limit is exceeded, pension benefits are suspended until the beginning of the following year.

The limits on post-retirement employment were expanded to the 1,500 hour limit for PERS 1 and TRS 1 by the 2001 Legislature through the passage of Engrossed Substitute Senate Bill 5937. ESSB 5937 expressly disclaimed any contractual right to 1,500 hours of post-retirement without suspension of pension benefits, and it also contained expiration dates for the laws allowing the 1,500 hours in June of 2004 for TRS and December 2004 for PERS. The expiration dates were vetoed from the bill by the Governor.

Summary: The definition of separation from service in PERS and TRS is changed to exclude circumstances where the employer and employee have an oral or written agreement to resume work for that employer following termination. The amended definitions reference the false statement provisions in PERS and TRS, and they may be violated if separation from service is claimed by an employee or an employer when an agreement exists.

The eligibility for 1,500 hours of post-retirement employment in PERS Plan 1 and TRS Plan 1 is conditioned on the employer and the employee satisfying certain conditions, and if not met, the retiree may only work for 867 hours in a year before retirement benefits will be suspended.

The required length of separation from service is lengthened from one month following accrual to one and one-half months in TRS and three months in PERS.

An employer must document a justifiable need to hire a retiree into the position being filled. The employer must also hire the retiree through the established process for the position, retain records of the procedures followed and decisions made in hiring, and provide those records in the event of an audit.

The decision to hire a retiree must also be approved by the school board for a school district, the chief executive officer of a state agency, the Chief Clerk for the House of Representatives, the Secretary of the Senate for the Senate, or both the Chief Clerk and the Secretary of the Senate for legislative agencies, or be made according to rules adopted by a local government.

One provision of the act applies retroactively to retirees under PERS and TRS. The retiree is restricted to a cumulative total of 3,165 hours if employed as a teacher or principal, or 1,900 hours if otherwise employed, of post-retirement employment in excess of 867 hours per year while in receipt of a benefit. The 3,165 and 1,900 hour totals are applied from the date of retirement to those who retired prior to the effective date of the act. Past hirings, however, would not be re-examined under the other new conditions established in the act – for example, satisfaction of the three-month PERS separation from service requirement.

Votes on Final Passage:

House	96	0	
Senate	33	16	(Senate amended)
House			(House concurred in part; refused to concur in part)
Senate	38	11	(Senate receded in part)
House	97	0	

Effective: July 27, 2003

Partial Veto Summary: The Governor vetoed sections applicable to TRS that modified the definition of separation from service and added additional conditions for retiree eligibility for 1,500 hours of post-retirement employment without benefit suspension.

VETO MESSAGE ON HB 1829-S

May 20, 2003

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 1 and 2, Substitute House Bill No. 1829 entitled:

"AN ACT Relating to postretirement employment in the public employees' retirement system and the teachers' retirement system;"

This bill would impose new standards and procedures for rehiring members of the Teachers Retirement System and the Public Employees Retirement System who have retired from public employment.

I initially proposed the retire-rehire legislation in 2001 to address the shortage of qualified teachers and school administrators. Prior to this law, the Teachers Retirement System penalized experienced teachers by limiting them to 30 years of retirement service credit, even if they taught longer than that.

Section 1 would make it a felony for a member of the Teachers Retirement System to enter into an oral or written agreement to resume employment after retirement. While I appreciate the intent of the Legislature to prohibit employees and employers from entering into private handshake deals, the penalty in this section is significantly more severe than the penalty for similar acts committed by members of the Public Employees Retirement System. Therefore, I am vetoing section 1.

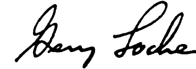
Section 2 would provide new standards and procedures for the future employment of retirees within the public school system. I strongly support those accountability provisions. However, section 2 would also place an artificial 'lifetime limit' on the number of hours that a retired member of the system could work after being rehired, and would make that limit retroactive. The retroactive lifetime limit will place an unreasonable recruitment burden on school districts facing significant shortages of qualified teachers and principals. We must protect the ability of school districts to provide for the education of our children, and trust their locally elected school boards to properly administer the retire-rehire law. Therefore, I am vetoing section 2.

While I am not vetoing Section 4, which would make it a gross misdemeanor for a member of the Public Employees Retirement System to enter into an oral or written agreement to resume employment after retirement, I am concerned that the language of the section is flawed and therefore almost impossible to prosecute under. I believe the Legislature should consider legislation to perfect the language to make the elements of the crime clear and to place the language into RCW 41.40.055, which is the section dealing with pension fraud for this retirement system.

For these reasons, I have vetoed sections 1 and 2 of Substitute House Bill No. 1829.

With the exception of sections 1 and 2, Substitute House Bill No. 1829 is approved.

Respectfully submitted,



Gary Locke
Governor

SHB 1832

C 4 L 03

Correcting rate class 16 in schedule B by amending RCW 50.29.025 and making no other changes.

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

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

Background: Washington's unemployment compensation program provides partial wage replacement benefits for workers who are unemployed through no fault of their own. Employers make contributions through payroll taxes to finance these benefits. Contribution rates are based on a statutory tax table and are determined by the tax schedule in effect and the employer's rate class.

The tax table contains seven different tax schedules, AA through F. The tax schedule in effect is set annually and depends on the balance in the unemployment insurance trust fund and the total payroll in covered employment. Schedule B is in effect for 2003.

Each tax schedule contains 20 different rate classes. An employer is assigned to one of these 20 rate classes depending on the employer's layoff experience relative to other employers' experience.

In 2000 legislation was enacted that reduced various contribution rates. The reductions were based on a tax table forwarded by the Employment Security Department using the Legislature's policy assumptions. In the tax table, the contribution rate for Rate Class 16 in Schedule B was erroneously set at 3.69 percent instead of 3.42 percent.

In 2002 the Legislature approved two bills that affected the tax tables. The Governor vetoed House Bill 2303, which corrected the tax table error in Rate Class 16, because this error was also corrected in the tax table in EHB 2901. However, most of the tax provisions contained in EHB 2901 were referred to the people in Referendum Measure 53 and were not approved in the November 2002 elections. As a result, the correction in Rate Class 16 did not take effect.

Summary: An error is corrected in the unemployment insurance contribution rate for Rate Class 16 in Schedule

B. Beginning with rate year 2003, the rate is changed from 3.69 percent to 3.42 percent.

Votes on Final Passage:

House	95	0
Senate	49	0

Effective: March 13, 2003

SHB 1837
C 309 L 03

Authorizing certain fire protection districts to establish health clinic services.

By House Committee on Health Care (originally sponsored by Representatives Linville, Cody, Haigh, Schual-Berke, Santos, Morrell, Veloria and Chase).

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

Background: Point Roberts, Washington, is bounded on three sides by water and shares a common border with Canada. While part of Whatcom County, residents must drive through two international borders to seek medical attention in the county's largest city, Bellingham. A group of local citizens has attempted to open a health clinic in conjunction with the local fire protection district to serve some of the health needs of area residents. The State Auditor's Office has indicated that the fire protection district does not have the statutory authority to assist with the operation of a health clinic.

Summary: A fire protection district that shares a common border with Canada and is surrounded on three sides by water is authorized, to participate in the operation and maintenance of health clinics.

Votes on Final Passage:

House	92	0
Senate	49	0

Effective: July 27, 2003

2SHB 1841
FULL VETO

Establishing funding criteria for prevention and early intervention services.

By House Committee on Appropriations (originally sponsored by Representatives Kagi, Boldt, O'Brien, McIntire, Hunt, Schual-Berke, Shabro, Cooper, Linville, Pettigrew, Upthegrove, Moeller, Darneille, Miloscia, Dickerson, Clements, Armstrong, Orcutt, Fromhold, Delvin, Roach, Kenney, Haigh, Lovick, Chase, Santos and Hudgins).

House Committee on Children & Family Services
House Committee on Appropriations
Senate Committee on Children & Family Services & Corrections

Background: The Children's Administration (CA) in the Department of Social and Health Services (DSHS) administers the following prevention and early intervention programs focused on children and youth in the state:

- Alternate Response System, which provides services to low-risk families referred to Child Protective Services;
- Family Reconciliation Services, which provides voluntary services devoted to maintaining the family as a unit and preventing adolescents from being placed outside the home;
- Family Preservation Services, which provides services to families whose children face substantial likelihood of being placed outside the home or have already been placed outside the home;
- Intensive Family Preservation Services, which provides in-home therapist time to families whose children are at imminent risk of being placed outside the home;
- Continuum of Care, which provides early intervention services to low-risk families designed to be appropriate, accessible, and sensitive to the population served;
- Parent Trust Programs, which provides child abuse and neglect prevention services to families throughout the state; and
- Public Health Nurse Early Intervention Program, which provides trained public health nurses for voluntary in-home nursing services that can prevent the need for more intrusive Division of Children and Family Services interventions in at-risk families with young children.

Summary: The DSHS, in consultation with the Family Policy Council (Council), is required to identify, by March 1, 2004, criteria for funding prevention and early intervention services and programs in the CA that are either state-operated or contracted. The criteria must require that funded programs, at a minimum: define clear, measurable outcomes; identify research that may be applicable; identify anticipated cost benefits; describe broad community involvement, support, and partnerships; and provide data related to program outcomes and cost benefits. The DSHS is required to incorporate the funding criteria into contracts and operating procedures beginning January 1, 2005, within existing resources. The DSHS is also required to begin providing the program outcome data to the Council not later than June 1, 2005. The Council is required to begin analyzing the program outcome and cost benefit data July 1, 2005.

"Prevention and early intervention services and programs" consist of the following state-operated or contracted programs or their successors: Alternate

Response System, Family Reconciliation Services, Family Preservation Services, Intensive Family Preservation Services, Continuum of Care, Parent Trust Programs, the Public Health Nurse Early Intervention Program, and other prevention and early intervention services and programs in the CA, as identified by the Secretary of the DSHS.

Nothing in this Act creates: an entitlement to services; judicial authority to order the provision of services to any person or family if the services are unavailable or unsuitable, or the child or family is not eligible for such services; or a private right of action or claim on the part of any individual, entity, or agency against any state agency or contractor.

The Council is required to:

- beginning with its 2005 annual report and each subsequent report, list the prevention and early intervention services to which the established funding criteria are applied;
- beginning with its 2006 annual report and in each subsequent annual report, include the collected outcome and cost benefit data and provide an analysis of the success and cost benefit program outcomes; and
- beginning with its 2006 annual report and in each subsequent annual report, identify and recommend other services, programs, and state agencies to which the funding criteria may apply.

Votes on Final Passage:

House	98	0	
Senate	45	0	(Senate amended)
House			(House refused to concur)
Senate	46	0	(Senate amended)
House	98	0	(House concurred)

VETO MESSAGE ON HB 1841-S2

May 20, 2003

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, Second Substitute House Bill No. 1841 entitled:

"AN ACT Relating to the funding of prevention and early intervention services;"

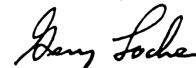
The primary purpose of this bill is to ensure that the Department of Social and Health Services (DSHS) establishes funding criteria and outcomes measures for the Children's Administration's state- operated and community-contracted prevention and early intervention services for children and families. It is not necessary to establish this requirement in statute. The implementation of outcomes measurement is a basic management tool that I expect all executive branch agencies to implement, including DSHS.

This bill creates a role for the Family Policy Council to consult with DSHS regarding the development of funding criteria, and to analyze and report on the outcomes data collected by DSHS. Although the Family Policy Council does have experience in this area as it performs these functions for each of the community public health and safety networks that it funds, it is my expectation that each executive agency, including DSHS, be able to perform these management functions on its own. The involvement of the Family Policy Council in these activities, in addition to DSHS, would therefore be duplicative and an unwise use of limited staff resources. Therefore, I have vetoed this bill.

However, I am directing DSHS to develop, by March 1, 2004, criteria for funding state-operated or contracted prevention and early intervention services, including, at a minimum, those services outlined in this bill. DSHS should incorporate the funding criteria into contracts and operating procedures, beginning no later than January 1, 2005. The criteria should include those outlined in section 2 of this bill. Finally, DSHS shall collect and analyze the program data to ensure accountability in delivering effective services.

For these reasons, I have vetoed Second Substitute House Bill No. 1841 in its entirety.

Respectfully submitted,



Gary Locke
Governor

ESHB 1844
C 119 L 03

Criminalizing possession of instruments or equipment of financial fraud.

By House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Schual-Berke, Benson, Simpson, Morrell, McIntire, Mielke, Hudgins, Rockefeller and Bush).

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

Background: Washington Criminal Statutes prohibit identity theft and other fraud in general. Law enforcement officials report an increasing sophistication of offenders with respect to the use of technology to produce fraudulent credit/debit cards, identification, and various payment instruments. Although the use of fraudulent documents or instruments may currently constitute any one of several crimes, the mere possession or manufacture of such items is not necessarily criminal.

Summary: Overview. Five new financial fraud crimes are created pertaining to the use, possession, or production of payment instruments, identification, or devices used to produce fraudulent documents. Exemptions are created for the legitimate practices of financial institutions and other entities occurring in the usual course of business. Several of these crimes are added to the list of predicate offenses that can give rise to prosecution under the Criminal Profiteering Act.

Unlawful Production of Payment Instruments. It is a crime to print or otherwise produce a check or other payment instrument that includes either the name, routing number, or account number of another person without the consent of that person. (Class C felony.)

Unlawful Possession of Payment Instruments. It is unlawful to possess – with the requisite criminal intent – two or more payment instruments in the name of a person, or which contain the routing or account number of a person, absent the permission of that person. Such possession is also prohibited if the named person, routing number, or account number is fictitious. (Class C felony.)

Unlawful Possession of a Personal Identification Device. It is unlawful to possess – with the requisite criminal intent – any device whose purpose is to manufacture or print any driver's license, identification card, credit/debit card, or badge. (Class C felony.)

Unlawful Possession of Fictitious Identification. It is unlawful to possess – with the requisite criminal intent – an identification card in the name of a fictitious person. (Class C felony.)

Unlawful Possession of Instruments of Financial Fraud. It is unlawful to knowingly possess check making equipment or software with the intent to perpetrate a crime involving financial fraud. (Class C felony.)

Unlawful Possession of Another's Identification. It is unlawful to possess identification in the name of another person unless one has the permission of that person. (Gross misdemeanor.)

Jurisdiction. When the prosecution of any of the offenses created by the act relates to the offense of identity theft, the jurisdiction may be either the place of the victim's residence or the locality in which any part of the offense took place.

Criminal Profiteering Act. The five felony offenses created by the act constitute criminal profiteering and are subject to the remedies available under the Criminal Profiteering Act.

Ranking of Seriousness Level. The Class C felonies created by the act are ranked in the sentencing guidelines as seriousness level I. This ranking is considered in conjunction with an offender's criminal history in order to determine the appropriate sentence.

Votes on Final Passage:

House	97	0
Senate	47	0

Effective: July 27, 2003
July 1, 2004 (Section 8)

ESHB 1845
C 124 L 03

Exempting financial account numbers from public disclosure.

By House Committee on State Government (originally sponsored by Representatives Newhouse, Schual-Berke, Benson, Kirby, Linville, Moeller, Chase, Bush, Upthegrove, Veloria, McIntire, Skinner, Mielke and Rockefeller).

House Committee on State Government
Senate Committee on Financial Services, Insurance & Housing

Background: The open public records law was approved by state voters in 1972 as part of Initiative Measure No. 276. All public records of state agencies and local governments are open to public inspection and copying unless a law expressly excludes the public record from public inspection and copying. This disclosure requirement is liberally construed and any exception is narrowly construed.

A person's right to privacy is invaded or violated only if disclosure of information about the person: (1) would be highly offensive to a reasonable person, and (2) is not of legitimate concern to the public. Beyond that, only those records expressly identified are considered exempt from disclosure.

Many exemptions to the law exist, including:

- personal information on students in public schools, patients or clients of public institutions or public health agencies, or welfare recipients;
- information revealing the identity of persons who are witnesses to or victims of crime;
- test questions, scoring keys, and other examination data used to administer a licence, employment, or academic examination;
- financial and valuable trade information; and
- credit card numbers, debit card numbers, electronic check numbers, card expiration dates, or bank or other financial account numbers supplied to an agency for the purpose of electronic transfer of funds.

Summary: The exemption from public disclosure under the open public records act is broadened for credit card numbers, debit card numbers, electronic check numbers, card expiration dates, or bank or other financial account numbers. The limitation is removed that allowed the exemption only when the number or date was supplied to an agency for the purpose of electronic transfer of funds.

Votes on Final Passage:

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

Effective: July 27, 2003

SHB 1848
C 78 L 03

Exempting the installation, maintenance, and repair of certain medical devices from electrician licensing requirements.

By House Committee on Commerce & Labor (originally sponsored by Representatives Conway and Chandler).

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

Background: All electrical installations and all materials, devices, appliances and equipment used in such installations must meet certain electrical safety standards. A person in the business of installing or maintaining equipment that conveys or is operated by electric current must have an electrical contractor license. A person working in the electrical construction trade must have an appropriate certificate of competency. There are a number of exemptions to these general requirements.

Any device used in the diagnosis or treatment of disease or injury which does not violate the federal Medical Devices Amendment of 1976 is deemed to be in compliance with all requirements imposed by state law on electricians and electrical installations. This federal law was enacted to ensure the safety and effectiveness of medical devices. It established a comprehensive regulatory scheme administered by the federal Food and Drug Administration.

Summary: The installation, maintenance, and repair of medical devices deemed in compliance with all requirements imposed by state law on electricians and electrical installations are exempt from electrical licensing and certification requirements. Such work must be performed by qualified factory engineers or third-party service companies with equivalent training. Such work does not include providing electrical feeds into power distribution units or installation of conduits and raceways.

Votes on Final Passage:

House	90	0
Senate	47	0

Effective: July 27, 2003

SHB 1849
C 384 L 03

Creating a list of health care providers willing to serve as volunteer resources during an emergency or disaster.

By House Committee on Health Care (originally sponsored by Representatives Bailey, Cody, Pflug, Morris, Skinner, McDonald, Ruderman, Pearson, Ahern, Schindler, Kagi, Kristiansen, Morrell, Orcutt, Darneille, Benson, Wood, Pettigrew, Newhouse, Clements, O'Brien, Linville, Moeller, Chase, Tom, Alexander, Talcott, Rockefeller, Woods and Anderson).

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

Background: The Department of Health (DOH) regulates 55 different types of health care professions. There are more than 250,000 health care providers credentialed in these fields.

The Emergency Management Division of the Washington Military Department (Department) is responsible for matters related to the preparation and performance of all non-military emergency functions concerning emergencies and disasters and the provision of aid to victims of these events. The Director of the Department is responsible for developing a comprehensive emergency management plan which must address all natural, technological, or human caused hazards that pose a risk to Washington and for coordinating local resources. Political subdivisions may create local organizations to develop local emergency management plans that are consistent with the Department's comprehensive plan. Local organizations also may enter into mutual aid agreements with other local organizations to provide reciprocal assistance in the event of a disaster.

Summary: The DOH is authorized to contact health care professionals to request permission to collect their names, professions, and contact information and include them in the DOH's records of potential volunteers to serve in the event of a bioterrorism incident, natural disaster, or other emergency or disaster where health care providers are needed. The DOH is required to maintain the list and, upon request, send it to local health departments, state emergency planning and response agencies, and the Centers for Disease Control and Prevention.

Votes on Final Passage:

House	94	0
Senate	41	0

Effective: July 27, 2003

ESHB 1852
C 278 L 03

Facilitating collaboration among health care work force stakeholders to address the health care personnel shortage.

By House Committee on Higher Education (originally sponsored by Representatives Schual-Berke, Conway, Cox, Cody, Kenney, Pflug, Clements, O'Brien, Chase, Morrell, Veloria and Skinner).

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

Background: Health Personnel Resource Plan (HPRP). In 1991 the Legislature directed six state education and health agencies to develop a biennial plan for identifying shortages in health personnel and to design and implement activities intended to remedy those shortages. The legislation detailed numerous components expected in the plan, including assessment of future health care training needs; data on the number, type, and location of health personnel in the state; and strategies for providing necessary training and education for health personnel. Each higher education institution was expected to

develop institution-level plans for curriculum, programs, and internship and residency opportunities to address the needs identified in the state plan.

Funding for the HPRP was eliminated in 1997-99 and, although references to the plan remain in statute, the planning has been discontinued.

Health Care Personnel Shortage Task Force (Task Force). In 2002 four legislators requested that the Workforce Training and Education Coordinating Board (WTECB) convene a task force of labor, business, education, and health care leaders to address the health care personnel shortage in Washington. In January 2003 the Task Force reported back to the Legislature with a state strategic plan built on six goals and accompanying recommendations for action. The sixth goal was to "develop a mechanism to ensure continued collaboration among stakeholders, track progress, create accountability for fulfilling this plan, and plan for future health workforce needs."

Summary: The WTECB is directed to facilitate ongoing collaboration among stakeholders to address the health care personnel shortage and to establish and maintain a state strategic plan for ensuring an adequate supply of personnel. Reports are due to the Governor and Legislature by December 31, 2003, and annually thereafter, on the progress of the plan, along with any additional recommendations.

Statutes creating and referencing the HPRP are amended or repealed.

Votes on Final Passage:

House	96	0
Senate	49	0

Effective: July 27, 2003

ESHB 1853
C 83 L 03

Providing passenger ferry service.

By House Committee on Transportation (originally sponsored by Representatives Rockefeller, Woods, Haigh, Morris, Quall and Lantz).

House Committee on Transportation
Senate Committee on Highways & Transportation

Background: Public Transportation Benefit Areas (PTBAs) are organized to provide public transit services. PTBAs may include a portion of a county, an entire county, or more than one county. To provide its transit services, PTBAs may impose up to 0.9 percent sales tax, or a business and occupation tax and a $1 per month housing unit excise tax.

Passenger-only ferry (POF) service from Seattle to Bremerton and Seattle to Vashon is provided by the Washington State Ferry System (WSF). However, the WSF has proposed elimination of this POF service.

Ferries, other than those operated by the WSF, are prohibited from crossing the Puget Sound or any of its tributary or connecting waters within 10 miles of a route served by the WSF, but the Washington Utilities and Transportation Commission (WUTC) may grant a waiver from this restriction. Also, private operators of ferry service must first obtain a certificate of public convenience and necessity from the WUTC before operating such service.

Summary: Public Transportation Benefit Areas (PTBAs) with a boundary on the Puget Sound may operate passenger-only ferries (POFs). Eligible PTBAs proposing services must first develop a passenger ferry investment plan, which identifies terminal locations served, projected costs of providing services, revenues generated from tolls, locally collected tax revenues, and other revenue sources.

A PTBA may, as part of its POF investment plan, recommend some or all of the following revenue sources: (1) a sales and use tax of up to 0.4 percent and a motor vehicle excise tax of up to 0.4 percent; (2) tolls for passengers and parking; and (3) charges or license fees for advertising or leasing space for services to ferry passengers. Voter approval of the passenger ferry investment plan, including proposed taxes, is required.

The legislative authority of any county with a population greater than one million persons may create a passenger-only ferry district. The district is a municipal corporation and the county legislative authority, acting ex officio, is the district's governing body. The district may levy a property tax of up to 75 cents per $1,000 of assessed valuation for ferry district purposes.

The Washington State Department of Transportation (WSDOT) may enter into contracts with the PTBAs and county ferry districts to transfer passenger ferry vessels and associated properties in exchange for those agencies assuming all future maintenance and operation costs of the vessels and facilities. The contract must provide that the vessels and properties revert to the WSDOT if they are not properly maintained or used for providing POF service.

PTBAs and county ferry districts that operate POF service may rent, lease, or purchase passenger-only vessels, related equipment, or terminal space from WSF for loading and unloading ferries. They are not subject to the WSF's contractual labor obligations. However, a PTBA is subject to the terms of the contracts it negotiates with bargaining representatives of its or its subcontractors in accordance with the Public Employees' Collective Bargaining Act or the National Labor Relations Act. County ferry districts are subject to those same labor requirements, must give preferential hiring to former employees of the WSDOT who were displaced when state POF service was terminated, and must provide for questions concerning collective bargaining representation of their employees to be determined by conducting a

card cross-check.

Passenger-only ferry service operated by a PTBA or a county ferry district is not bound by the 10-mile restriction and therefore does not require a waiver from the WUTC.

The WUTC is to take into account public agencies operating or eligible to operate POF services when granting certificates of public convenience and necessity for private ferry operators. The WUTC is prohibited, until March 1, 2005, from granting new passenger-only certificates to private ferry operators where PTBAs or county ferry districts are authorized to operate POF service. Affected PTBAs may waive that prohibition, in which case the WUTC may grant certificates. The WUTC may revoke a certificate if the private operator has not initiated service within 20 months after being granted the certificate.

The definition of public transportation service is expanded to include POF service, affecting PTBA authority to preclude other operators of POF service within the PTBAs service area and the responsibility for the PTBA to acquire other POF operations within its boundaries when it begins operations.

Votes on Final Passage:

House	96	0
Senate	46	0

Effective: April 23, 2003

SHB 1854

C 138 L 03

Allowing cities and public utility districts to purchase energy, including the capability to produce energy, from the agency.

By House Committee on Technology, Telecommunications & Energy (originally sponsored by Representatives Crouse, Sullivan, Delvin, Blake, Bush and Grant).

House Committee on Technology, Telecommunications & Energy
Senate Committee on Natural Resources, Energy & Water

Background: In the 1950s, the Legislature authorized formation of joint operating agencies that allowed cities and public utility districts to join together to develop electricity generation projects. In 1957, 17 public utilities formed the Washington Public Power Supply System. The first project was the Packwood Lake Hydroelectric Project.

During the 1970s, the joint operating agency began construction of three nuclear facilities, one of which is the Columbia Generating Station at Hanford, the only operating nuclear power plant generating electricity in the state. A joint operating agency is authorized to issue tax exempt revenue bonds to finance its projects. In the case of the first three nuclear power plants, revenue from the Bonneville Power Administration (BPA) was used to guarantee repayment of the revenue bonds through a system of net-billing. An IRS ruling in 1972 changed the tax exempt status of federal agencies and further net-billing agreements were prohibited.

The joint operating agency and others, as part of a regional program of expanding electricity generation, began construction of two additional nuclear facilities. Since the net-billing arrangement with BPA was not available, participants in the project signed participant agreements to finance the operation and construction of plants four and five.

Construction on plants four and five was halted in the early 1980s. In 1983 the Washington Supreme Court (Court) invalidated the 29 participant agreements between the joint operating agency and these publicly-owned utilities. The Court found that these utilities had authority to purchase electricity from the joint operating agency but did not have the authority to contract for the capacity of a facility. Contracting for capacity has the effect of guaranteeing payment of a project that may or may not produce any electricity.

Currently the joint operating agency, known as Energy Northwest, has 17 members (three cities and 14 public utility districts). Energy Northwest has recently developed two wind power generation sites, a solar power demonstration site, and is exploring generation using biomass, fuel cells, and ocean wave power.

Summary: Cities and public utility districts (PUDs) may purchase electric power from a joint operating agency that the city or district requires for its present and future output.

For those projects using only qualified alternative resources as the fuel source, the contract to purchase power may include the capability to produce electricity as well as the actual output of the facility. It may also include provisions that require the city or PUD to make payment whether or not the project is completed or operating. The contract may also provide that the contract payments are not subject to reduction and shall not be conditioned on the performance or nonperformance of the operating agency or any city or PUD under the contract.

Votes on Final Passage:

House	91	0	
Senate	48	0	(Senate amended)
House	97	0	(House concurred)

Effective: July 27, 2003

SHB 1855

C 108 L 03

Clarifying licensed independent clinical social worker education and experience requirements.

By House Committee on Children & Family Services (originally sponsored by Representatives Dickerson, Campbell, McDermott and Skinner).

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

Background: A licensed clinical social worker is an independent health care provider licensed by a state to work with patients. States grant the licenses to clinical social workers who meet specific requirements prescribed by state laws and regulations for the practice of social work. The requirements include education, supervision, experience, and a written examination.

In Washington there are two classifications of social workers: licensed advanced social worker and licensed independent clinical social worker. The qualifications for a licensed independent clinical social worker include:

- Graduation from a master's or doctorate level social work educational program;
- Successful completion of an approved examination;
- Successful completion of a supervised experience requirement; and
- Successful completion of continuing education requirements.

Summary: In order to supervise a candidate seeking to qualify as a licensed independent clinical social worker, the supervisor must be a licensed independent clinical social worker who has been licensed or certified for at least five years and who has had at least one year of experience in supervising the clinical social work practice of others.

Votes on Final Passage:

House	94	0
Senate	49	0

Effective: July 27, 2003

HB 1858

C 343 L 03

Regarding taxation of persons providing chemical dependency services.

By Representatives Morris, McIntire, Gombosky, Cairnes, Roach and Shabro.

House Committee on Finance
Senate Committee on Ways & Means

Background: The business and occupation (B&O) tax is Washington's major business tax. The tax is imposed on the gross receipts of business activities conducted within the state. Revenues are deposited to the state General Fund. A business may have more than one B&O tax rate, depending on the types of activities conducted. The rate at which gross receipts derived from the provision of chemical dependency services are taxed is 1.5 percent.

The B&O tax does not permit deductions for the costs of doing business, such as payments for raw materials and wages of employees. Nonetheless, there are many exemptions for specific types of business activities and certain deductions and credits permitted under the B&O tax statutes.

In addition to exemptions, credits, and deductions, certain activities are taxed under the B&O tax at preferential rates relative to the principal classification rates. For example, while services generally are taxed at a 1.5 percent rate, nonprofit businesses that conduct research and development services are taxed at a rate of 0.484 percent.

The Department of Social and Health Services certifies specialists to provide chemical dependency treatment services in Washington under the Department's Division of Alcohol and Substance Abuse. These persons may receive funding from the state, federal, and local governments to provide such services.

Two forms of chemical dependency treatment are intensive inpatient treatment and recovery house treatment. Intensive inpatient treatment is a highly structured program in a residential setting, and services emphasize alcohol and drug education and individual or group therapy. Recovery house treatment involves social, recreational, and occupational therapy as well as treatment in a residential setting. The recovery house approach emphasizes helping patients to re-enter the community and the outpatient phase of treatment.

Summary: The tax rate under the B&O tax is reduced from 1.5 percent to 0.484 percent, on certain income received by persons certified by the Department of Social and Health Services to provide intensive inpatient or recovery house residential treatment services for chemical dependency. The preferential tax rate applies to income received from any federal, state, or local governmental entity by such certified persons for the provision of these services.

Votes on Final Passage:

House	94	0	
Senate	46	2	(Senate amended)
House	91	0	(House concurred)

Effective: July 27, 2003

HB 1878

C 105 L 03

Providing the courts access to information in third-party custody petitions.

By Representatives Dickerson and Pettigrew.

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

Background: Third party custody proceedings. A person other than the parent may seek legal custody of a child by filing a third party custody petition in court. The statutes do not set forth any particular requirement that must be met for a third party to have standing (the right to bring legal action). However, the statutes specify that a petition may only be filed if the child is not in the physical custody of one of the parents or if the petitioner alleges that neither parent is a suitable custodian.

In determining custody, the court may order an investigation or hear from experts, but there is generally no casework supervision. In addition, third party custody petitions may be decided by default if the other party fails to respond to the petition.

The Judicial Information System. The Washington State Supreme Court maintains the Judicial Information System (JIS), which contains the names of parties in domestic violence protection orders, and family law proceedings. The JIS also contains the criminal history of the parties. Courts are directed to consult the JIS in a variety of circumstances.

The Department of Social and Health Services records of investigations. Upon the receipt of a report of possible child abuse or neglect, the Department of Social and Health Services (DSHS) must investigate and provide the Child Protective Services Section (CPS) with a report. An alleged perpetrator in a "founded" CPS report made on or after October 1, 1998 may challenge the finding. A "founded" report means it is more likely than not that abuse or neglect occurred. The DSHS may not keep records of unfounded reports of child abuse or neglect for more than six years, unless within those six years from the receipt of the unfounded report there has been another report made on the same perpetrator.

Criminal history information held by the Washington State Patrol. The Washington State Patrol (WSP) maintains criminal history record information on all persons who have been arrested and charged with or convicted of any criminal offense. The WSP also maintains dependency record information, which includes identifying data on persons over the age of 18 who have been found in a dependency proceeding to have abused a child.

The Indian Child Welfare Act (ICWA). The federal Indian Child Welfare Act contains numerous substantive and procedural provisions. For example, the ICWA requires that notice of child custody proceedings be provided to the child's tribe as well as to the parents, and the tribe may intervene in the proceedings. Generally, the ICWA applies to state court custody proceedings that involve placing the child with someone other than the parents. Failure to verify whether the child is an Indian child, as defined under the ICWA, can jeopardize the validity of subsequent proceedings pertaining to the child.

Summary: A procedure for a threshold hearing is added to the third party custody statutes. In addition, a third party custody petition must contain a statement alleging whether the child is or may be an Indian child as defined under the ICWA. Every third party custody order must state whether the ICWA applies, and if applicable, state that all notice requirements and evidentiary requirements under the ICWA have been satisfied.

Before granting any order in third party custody proceedings, the court must consult the JIS, if available, to determine the existence of any information and proceedings that are relevant to the placement of the child. Before entering any final order, the court must:

(a) direct the DSHS to release certain investigation information; and
(b) require the petitioner to provide the results of an examination of state and national identification data from the WSP for the petitioner and any adult members of the petitioner's household.

The DSHS may give the court information in which:

(a) the child in the third party custody petition was an alleged victim of abandonment, abuse, or neglect; and
(b) the third party custody petitioner or any person aged 16 or older residing in the petitioner's household was the subject of a founded investigation by the CPS made after October 1, 1998 or is the subject of a current investigation.

Additional investigation information from the DSHS may only be released with the written consent of the subject of the investigation and the juvenile alleged to be the victim or by court order obtained with notice to all interested parties. Disclosure of records or information by the DSHS is not a waiver of any confidentiality or privilege, and any recipient of the records or information must maintain it in such a manner as to comply with state and federal laws regarding disclosure.

The petitioner in a third party custody proceeding must include in the petition the names of any adult members of the petitioner's household. The JIS data base must contain the names of any adult cohabitant of a petitioner to a third party custody action.

Votes on Final Passage:

House	97	0	
Senate	49	0	(Senate amended)
House	97	0	(House concurred)

Effective: July 27, 2003

HB 1882
C 139 L 03

Modifying local improvement district provisions.

By Representatives Grant, Delvin, Miloscia, Jarrett and Upthegrove.

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

Background: Local Improvement District Bonds. Local Improvement Districts (LIDs) are a means of assisting benefitting properties in financing needed capital improvements through the formation of special assessment districts. These special assessment districts permit improvements to be financed and paid for over a period of time through assessments on the benefitting property. LID processes ultimately lead to the sale of bonds to investors and the retirement of those bonds through annual payment by the property owners within a district.

Each local improvement bond issued must, among other requirements, provide that the principle and interest on the bonds be payable out of the local improvement fund created for the cost and expense of the improvement; out of the local improvement guaranty fund, unless provided otherwise by ordinance; or out of a reserve fund, if established for such bonds.

During the 2002 legislative session, the Legislature gave cities the option of pledging their LID guaranty funds to secure LID bonds rather than requiring cities to pledge their LID guaranty funds. If a city elects not to pledge its guaranty fund, debt service on the bonds is secured only by LID assessments and by amounts maintained in a reserve fund, if any. If the LID guaranty fund is pledged, the city would be required to levy taxes in the event of delinquent bond payments.

Interest only payments may be made from the general revenues of the city, if provided in the bond ordinance.

Redemption of Local Improvement District Bonds. Bonds are issued in numerical order from one upwards. When there is sufficient money in the local improvement fund over and above what is needed for payment of interest on all unpaid bonds of that issue, the county treasurer redeems one or more bonds. The city or town must publish notice of the redemption in the local newspaper, providing the bonds and bond numbers to be paid. The bonds must be paid in their numerical order.

Redemption of County Road Improvement District Bonds. Like cities and towns, counties have the authority to create road improvement districts (RIDs) and to issue bonds to finance RIDs.

Like the LID process, counties may borrow money to finance road improvements by issuing bonds. Counties pay off these financial obligations over time through the collection of assessments receivable that have been levied against the benefitting property owners. The assessments are liens against the property and are subject to foreclosure.

Money collected through assessments by the county treasurer must be kept in a separate county improvement district fund. The fund may only be used to cover costs of improvements in the district, payment of interest or principle, or warrants and bonds issued upon or against the fund. If, after payment of costs and expenses of the improvement, there are funds sufficient to redeem one or more bonds over and above the amount necessary to meet the interest payments next accruing on outstanding bonds, the treasurer must call such bonds for redemption.

Summary: Local Improvement District Bonds. A city or town may transfer money from its general fund to its local improvement guaranty fund or any local improvement fund to cover the payment of bonds, interest coupons, warrants, or other short term obligations.

Redemption of Local Improvement District Bonds. A city or town may redeem one or more bonds issued in chronological order by maturity date, and within each maturity date, by estimated redemption as determined in the bond authorizing ordinance.

Redemption of County Road Improvement District Bonds. When there are funds sufficient to redeem one or more bonds, over and above the amount necessary to meet the interest payments next accruing on outstanding bonds, the treasurer must call such bonds for redemption as determined in the bond authorizing ordinance.

Votes on Final Passage:

House	96	0
Senate	46	0

Effective: May 7, 2003

2SHB 1887
C 174 L 03

Creating the commercial fisheries permit buyback account.

By House Committee on Appropriations (originally sponsored by Representatives Linville, Sump, Cooper, Buck and Hatfield).

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

Background: The Department of Fish and Wildlife (DFW) manages most commercial fisheries in Washington and issues commercial fishing licenses. Many fisheries are closed fisheries, meaning that the number of licenses issued for that fishery is capped at a set number. These fisheries include the coastal Dungeness crab fishery and the ocean pink shrimp fishery.

To receive a crab-coastal or ocean pink shrimp fishery license, a fisher must demonstrate that he or she met certain criteria relating to historic harvest levels. The

license is, however, transferrable to another fisher that does not meet the defined criteria for license issuance.

If less than 175 fishers are eligible for a crab-coastal license, the DFW may issue new licenses until a total of 175 licenses have been issued. The DFW must adopt rules for the notification, selection, and issuance of any new licenses.

Occasionally the federal government undertakes efforts to reduce the size of the fleets operating in certain fisheries by purchasing individual fishing licenses. In 2003 the United States Congress decided to do this for the groundfish, Dungeness crab, and pink shrimp fisheries in Washington, Oregon, and California. Interested fishers will have the opportunity to offer a bid to have their licenses purchased by the federal government. The buyback program was funded with a 30-year loan that is designed to be repaid by the remaining fishers in the fleet.

Summary: If the federal government creates a groundfish fleet reduction buyback program, the Fish and Wildlife Commission (Commission) is authorized to collect a fee from commercial fishers holding an ocean pink shrimp license or a coastal Dungeness crab license. The Commission may establish the fee amount through administrative rule, and all fees collected must be used to reimburse the federal government for the permit buyback program. The set fee may not be more than is necessary for federal reimbursement and may not be greater than 2 percent of annual landings for crab fishers or more than 5 percent of annual landings for all other fleets. If any crab fisher participates in the federal buyback program, he or she may not be issued a new commercial crab license for 10 years, as long as Oregon and California institute a similar prohibition. The fee established by the Commission expires in 2033, unless the federal buyback program is completed sooner.

The statutory provision that requires the DFW to maintain a maximum of 175 coastal crab licenses is repealed.

The non-appropriated Commercial Fisheries Buy-back Account is created to hold any fees until they are distributed to the federal government. Once the federal government has been reimbursed, the Account may be used for other fleet reduction efforts.

Votes on Final Passage:

House	96	0
Senate	49	0

Effective: July 27, 2003

ESHB 1904

C 230 L 03

Revising standards for reporting incidents involving harm to vulnerable adults.

By House Committee on Children & Family Services (originally sponsored by Representatives O'Brien, Boldt, Kagi, Roach and Miloscia).

House Committee on Children & Family Services
Senate Committee on Health & Long-Term Care

Background: When there is reasonable cause to believe that abandonment, abuse, financial exploitation, or neglect of a vulnerable adult has occurred, mandated reporters must immediately report to the Department of Social and Health Services (DSHS). If there is reason to suspect that sexual or physical assault has occurred, mandated reporters must immediately report to the appropriate law enforcement agency and to the DSHS.

"Mandated reporter" is defined as: an employee of the DSHS; a law enforcement officer; a social worker; professional school personnel; an individual provider; an employee of a facility; an operator of a facility; an employee of a social service, welfare, mental health, adult day health, adult day care, home health, home care, or hospice agency; a county coroner or medical examiner; a Christian Science practitioner; or a health care provider.

"Vulnerable adult" includes a person who:

- Is 60 years of age or older and who has the functional, mental, or physical inability to care for himself or herself;
- Is found incapacitated;
- Has a developmental disability;
- Has been admitted to any facility, including boarding homes, nursing homes, adult family homes, soldiers' homes, and residential habilitation centers;
- Is receiving services from a licensed home health, hospice, or home care agency; or
- Is receiving services from an individual provider under contract with the DSHS to provide services in the home.

Summary: When there is reason to suspect that physical assault has occurred or there is reasonable cause to believe that an act has caused fear of imminent harm:

- mandated reporters must immediately report to the DSHS; and
- mandated reporters must immediately report to the appropriate law enforcement agency, unless the provided exclusions apply.

A mandated reporter is not required to report to a law enforcement agency, unless requested by the injured vulnerable adult or his or her legal representative or family member, an incident of physical assault between vulnerable adults that causes minor bodily injury and does not require more than basic first aid, unless:

- the injury appears on the back, face, head, neck, chest, breasts, groin, inner thigh, buttock, genital, or anal area;
- there is a fracture;
- there is a pattern of physical assault between the same vulnerable adults or involving the same vulnerable adults; or
- there is an attempt to choke a vulnerable adult.

Votes on Final Passage:

House	95	2	
Senate	49	0	(Senate amended)
House	97	0	(House concurred)

Effective: May 12, 2003

HB 1905
C 121 L 03

Providing a limited property tax exemption.

By Representatives Gombosky, Buck, Lantz, Tom, Pettigrew, Rockefeller, Skinner, Fromhold, Benson, Kagi, Kessler, Clibborn, Nixon, Kenney, Moeller, Conway, Hudgins, Santos and McDermott.

House Committee on Finance
Senate Committee on Ways & Means

Background: All property in this state is subject to the property tax each year based on the property's value, unless a specific exemption is provided by law.

Several property tax exemptions exist for non-profit organizations. Examples of non-profit property tax exemptions are: character building, benevolent, protective or rehabilitative social service organizations; churches and church camps; youth character building organizations; war veterans organizations; national and international relief organizations; federal guaranteed student loan organizations; blood, bone, and tissue banks; public assembly halls; medical research or training facilities; art, scientific, and historical collections; sheltered workshops; fair associations; humane societies; water distribution property; schools and colleges; radio/television rebroadcast facilities; fire company property; day-care centers; free public libraries; orphanages; nursing homes; hospitals; outpatient dialysis facilities; homes for the aging; day care centers; performing arts properties; homeless shelters; and blood banks.

Property tax exempt property must be used exclusively for the actual operation of the activity for which the exemption was granted. The property may be loaned or rented if (a) the rent received for the use of the property is reasonable and does not exceed maintenance and operation expenses, and (b) except for public assembly halls and war veterans organizations, the organization renting the property would be exempt from tax if it owned the property.

Summary: Non-profit associations that maintain and exhibit historical, scientific, or artistic collections and performing arts associations may retain their property tax exemption when they allow another organization that does not qualify for the property tax exemption to use or rent their exempt property. The property may be used or rented for artistic, scientific, or historic purposes, for the production and performance of musical, dance, artistic, dramatic, or literary works, or for community gatherings or assembly, or meetings. The property may be used for these purposes for up to 25 days per year. For seven of these days the property may be used for profit making business activities.

Votes on Final Passage:

House	98	0	
Senate	48	1	(Senate amended)
House	97	0	(House concurred)

Effective: July 27, 2003

SHB 1909
C 131 L 03

Creating a pilot project for competency-based transfer in higher education.

By House Committee on Higher Education (originally sponsored by Representatives Jarrett, Kenney, Cox, Fromhold, Chase, Berkey, Pearson, McCoy, Gombosky, Lantz, Clements, Talcott, Buck, Rockefeller, Pflug, Moeller, Priest, Edwards and Santos).

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

Background: Since the passage of Washington's education reform law in 1993, the K-12 education system has been working to define and measure student performance based on state-defined Basic Education goals and Essential Academic Learning Requirements. The theory behind Washington's education reform (and that of other states) is that students should earn a high school diploma by demonstrating competency in meeting the state's education standards, rather than by completing a specified number of courses or credits.

Some work has been done in the state's higher education system to define desired educational outcomes on the basis of student competencies. For example, starting in 1995, the Higher Education Coordinating Board (HECB) began to develop a competency-based approach for college admission. The HECB has translated current minimum admissions standards into competencies for English, math, world languages, and science.

The community and technical colleges have been working for some time to develop skill standards for career-technical programs based on the knowledge and skills demanded by employers and national standards in

a given industry. Individual four-year institutions are incorporating learning objectives into course descriptions or syllabi; particular degree programs, such as teacher preparation, have defined expected performance in terms of what students should know and be able to do.

For the most part, however, transfer between two and four-year institutions of higher education remains governed by the courses and credits students accumulate toward their desired degree program.

Summary: The HECB, in consultation with the State Board for Community and Technical Colleges and the Council of Presidents, will recruit a four-year institution, at least two community or technical colleges, and at least one accredited private career college to participate in a pilot project to define transfer standards in selected academic disciplines on the basis of student competencies.

The participants, along with the HECB, will submit a work plan and time lines for the project to the higher education committees of the Legislature by December 1, 2004. The participants and the HECB must structure their work so that development costs for the project are absorbed within existing institution and agency budgets.

Under the project, participants will develop standards, definitions, and quality assurance procedures. The Legislature's intent is that the transfer system in the project permits the four-year institution to define the knowledge, skills, and abilities students should possess in order to enter an upper division program in a particular academic discipline. The institutions providing lower division preparation are responsible for certifying that a student meets the standards, but have flexibility in determining how to assess student competencies.

The participants and the HECB report to the Legislature on their progress by December 1, 2005, including identifying any barriers encountered and making recommendations for the next steps in developing a competency-based transfer system. The pilot project expires on June 30, 2006.

Votes on Final Passage:

House	95	0	
Senate	49	0	(Senate amended)
House	97	0	(House concurred)

Effective: July 27, 2003

SHB 1930
C 25 L 03

Enacting procedural enhancements to the master settlement agreement.

By House Committee on Finance (originally sponsored by Representatives Morris, Cairnes, Gombosky and Ericksen).

House Committee on Finance
Senate Committee on Commerce & Trade

Background: The Tobacco Master Settlement Agreement (Agreement) is an agreement between two groups known as the "Settling States" and the "Participating Manufacturers." The Settling States consist of 46 states, the District of Columbia, and six territories. The Participating Manufacturers include the major tobacco companies and several smaller manufacturers. A group of tobacco manufacturers that did not sign the Agreement is known as the "Non-Participating Manufacturers." In order to ensure that any state that successfully sues a Non-Participating Manufacturer in the future will have a fund against which they can recover any judgment or settlement moneys, the Agreement included a proposed statute (Model Statute) which requires Non-Participating Manufacturers to make annual payments into an escrow fund based on the number of cigarettes sold in the state. The Model Statute is also intended to prevent Non-Participating Manufacturers from reaping a windfall benefit by selling cigarettes in a state without bearing the costs that cigarette smoking imposes on the state. Washington enacted the Model Statute in 1999. Several states have enacted additional statutes designed to aid in enforcing the Model Statute. These statutes have been referred to as "complementary legislation."

A tax is imposed on cigarettes at the rate of 142.5 cents per pack of 20 cigarettes. The tax is due from the first person who sells, uses, consumes, handles, possesses or distributes the cigarettes in this state. 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. 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.

Summary: Every tobacco manufacturer must provide an annual certification to the Attorney General. For Participating Manufacturers, the certification must include a list of brand families. A brand family means all styles of cigarette sold under a particular brand name. For Non-Participating Manufacturers, the certification must include additional information about the number of units sold under each brand family. A Non-Participating Manufacturer must also certify that: a) it is registered to do business in the state, or has appointed an agent for service of process; b) it maintains an escrow fund approved by the state; c) it is in full compliance with the escrow statute; and d) it identifies the financial institution where it has established the escrow fund and identifies all deposits and withdrawals to and from the fund. All manufacturers must accept responsibility for the brands they

have listed, in terms of compliance with the Model Statute or the escrow requirements. The Attorney General must publish on its website a list of the brand families of tobacco manufacturers who have complied with the certification and escrow requirements.

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 website. The Liquor Control Board (Board) or Department may revoke or suspend the license of any wholesaler who violates this provision. The Board or Department may impose civil penalties for a violation of this provision, 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 of this provision. It is a gross misdemeanor to sell, distribute, or possess cigarettes with tax stamps that have been affixed in violation of the requirements of this act. Cigarettes not in compliance with the tax stamp requirements of this act may be seized as contraband.

Foreign and nonresident Non-Participating Manufacturers must provide an agent in this state for receipt of legal process. Non-Participating Manufacturers must provide information to the Attorney General, as requested, on the amount of money and activity in escrow accounts. Wholesalers and distributors of cigarettes must provide quarterly reports to the Director of Revenue on sales of cigarettes and make available invoices and documentation of sales. Wholesalers, distributors, and manufacturers must provide information to the Department, the Board, or Attorney General as requested to show compliance with this act. Information required under this act is confidential and may not be disclosed without permission of the wholesaler or distributor.

It is an unfair or deceptive act or practice, punishable under the consumer protection law, to violate the provisions of this act. Only the Attorney General may bring a consumer protection action to enforce this act.

The state is entitled to recover costs of investigation, court costs, and reasonable attorney fees for enforcement of this act.

Any provision of this act that conflicts with and cannot be harmonized with the Model Act is invalid.

Votes on Final Passage:

House	98	0
Senate	46	0

Effective: July 1, 2003

ESHB 1933

C 321 L 03

Declaring shoreline management act legislative intent.

By House Committee on Local Government (originally sponsored by Representatives Berkey, Kessler, Cairnes, Buck, Sullivan, Orcutt, Hatfield, Jarrett, Miloscia, Gombosky, Grant, DeBolt, Quall, Woods, Schoesler, Conway, Lovick, Clibborn, Edwards, Schindler, McCoy, Eickmeyer and Alexander).

House Committee on Local Government
Senate Committee on Land Use & Planning

Background: I. SHORELINE MANAGEMENT ACT

Policy. The Shoreline Management Act (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 creates preference criteria listed in the following order of priority that must be used by state and local governments in regulating shoreline uses:

- recognizing statewide interest over local interest;
- preserving natural shoreline character;
- resulting in long-term over short-term benefit;
- protecting shoreline resources and ecology;
- increasing public access to publicly owned shoreline areas;
- increasing public recreational opportunities; and
- providing for any of the mandatory elements within the local shoreline master program.

The SMA governs "shorelines of the state." These "shorelines of the state" are defined in the SMA to include both "shorelines" and "shorelines of statewide significance" as defined by statute.

"Shorelands" include the lands extending landward for 200 feet in all directions from the ordinary high water mark as well as floodways and contiguous floodplain areas landward 200 feet from the floodways. "Shorelands" also include all wetlands and river deltas associated with streams, lakes, and tidal waters subject to the SMA.

Requirements. The SMA involves a cooperative regulatory approach between local governments and the state. At the local level, SMA regulations are developed in local shoreline master programs (master programs). All counties and cities with shorelines of the state are required to adopt master programs which regulate land use activities in shoreline areas of the state. Counties and cities are also required to enforce their master programs within their jurisdictions. All 39 counties and more than 200 cities have enacted shoreline master programs.

Master Programs. Master programs regulate land use and activities within the shoreline jurisdiction. Local master programs have certain mandatory elements as appropriate. These include:

- an economic development element for locating and designing water-dependent industrial projects and other commercial activities;
- a public access element to provide for public access to public areas;
- a recreational element to preserve and enhance shoreline recreational opportunities;
- a circulation element to locate transportation and other public facilities for shoreline use;
- a use element addressing the location and extent of shoreline use for housing, business, industry, transportation, agriculture, natural resources, recreation, education, public facilities, and other uses;
- a conservation element to preserve natural resources in shoreline areas;
- a historic, cultural, scientific, and educational element to protect buildings, sites, and areas with such values; and
- an element considering statewide interests in preventing and minimizing flood damage.

Local governments may include other elements necessary to implement the SMA requirements.

Appeals. Appeals of shoreline rules adopted by the Department of Ecology (DOE) and other specific matters are reviewed by the Shorelines Hearings Board (SHB).

For jurisdictions planning under the major Growth Management Act requirements, adoption or amendment of master programs are appealed to the Growth Management Hearings Board (GMHB). Master programs adopted by other jurisdictions are appealed to the SHB. Certain standards are specified for appellate review of master programs. Decisions of either the SHB or the GMHB may be appealed to superior court.

II. GROWTH MANAGEMENT ACT

Policy. The Growth Management Act (GMA) establishes a comprehensive land use planning framework for county and city governments in Washington. Counties and cities meeting specific population and growth criteria are required to comply with the major requirements of the GMA. Counties not meeting these criteria may choose to plan under the GMA. Twenty-nine of 39 counties, and the cities within those 29 counties, are required to or have chosen to comply with the major requirements of the GMA (GMA jurisdictions).

The GMA establishes a list of 13 planning goals to be used exclusively for guiding the development and adoption of comprehensive land use plans and development regulations by GMA jurisdictions. The goals, which are not listed in an order of priority, include:

- encouraging urban growth in urban areas with adequate public facilities;
- reducing low-density development sprawl;
- encouraging efficient, regionally coordinated transportation systems;
- encouraging affordable housing availability;
- encouraging economic development and growth in areas with insufficient growth;
- protecting private property rights;
- processing permits in a timely and fair manner;
- maintaining and enhancing natural resource industries;
- retaining and developing open space and recreation availability and opportunities;
- protecting the environment and water availability;
- encouraging citizen participation and coordination;
- ensuring adequate public facilities and services; and
- encouraging historic preservation.

Requirements - Comprehensive Land Use Plans/ Critical Areas. Among numerous planning requirements, GMA jurisdictions must adopt internally consistent comprehensive land use plans (comprehensive plans), which are generalized, coordinated land use policy statements of the governing body. Each comprehensive plan must include planning provisions for each of the following elements:

- land use;
- housing;
- capital facilities plan;
- utilities;
- rural;
- transportation;
- economic development; and
- park and recreation.

The economic development and park and recreation elements do not require jurisdictional compliance or action until state funding is provided.

The GMA also requires all local governments to comply with specific provisions for critical areas. "Critical areas" are defined to include: wetlands; areas with a critical recharging effect on aquifers used for potable water; fish and wildlife habitat conservation areas; frequently flooded areas; and geologically hazardous areas. Using the best available science, each county and city must designate and protect critical areas. The protection of designated critical areas occurs through mandatory development regulations (i.e., critical area ordinances) adopted at the local level.

Comprehensive plans and development regulations are subject to continuing review and evaluation by the adopting county or city. Any amendments or revisions of development regulations must comply with the requirements of the GMA and must be consistent with and implement comprehensive plans.

III. POLICY INTEGRATION

In 1995 the Legislature enacted environmental regulatory reform legislation that implemented recommendations of the Governor's Task Force on Regulatory Reform. The legislation added the goals and policies of the SMA as an additional goal to the 13 planning goals of the GMA. Furthermore, the goals and policies of a

master program required by the SMA were deemed an element of a GMA jurisdiction's comprehensive plan.

Summary: GMA PROVISIONS

Policy and Governance. The GMA is amended to specify new policy and governance provisions for shorelines of the state, including establishing that:

- the integration of SMA goals and policies into the planning goals of the GMA does not create an order of priority among the GMA planning goals;
- master programs may not be adopted pursuant to goals, policies, and other existing GMA criteria used for the adoption of comprehensive plans or development regulations; and
- SMA policies, goals, provisions, and applicable guidelines must, with limited exceptions, be the sole basis for determining compliance of a master program with the GMA.

Critical Areas - Jurisdictional Provisions. "Shorelines of the state" must not be considered critical areas under the GMA except to the extent that specific areas within shorelines of the state qualify for designation and have been designated as such by a local government.

As of the date the DOE approves a master program adopted under applicable shoreline guidelines, the protection of critical areas within shorelines of the state must be accomplished through a master program. Master programs must provide a level of protection to critical areas within shorelines of the state that is at least equal to that provided by specific development regulations (such as critical area ordinances) required by the GMA. Except as provided, these critical areas are not subject to the procedural and substantive requirements of the GMA. If a local jurisdiction's master program does not include land necessary for buffers for critical areas that occur within shorelines of the state, the local jurisdiction must continue to regulate those critical areas and the required buffers according to critical area ordinances.

Best Available Science. The GMA requirement for using the best available science when designating and protecting critical areas may not apply to the adoption or amendment of master programs and may not be used to determine compliance of a master program with the SMA and applicable guidelines.

SMA PROVISIONS

Definitions and Concepts - Shorelands. The SMA definition of "shorelands" allows a local jurisdiction to include within its master program buffers for critical areas that occur within shorelines of the state. Forest practices, other than conversions to nonforest land use, within these buffer areas are not subject to additional regulations under the SMA.

Master Program Approval. The DOE must approve the segment of a master program relating to critical areas if the segment is consistent with the policy of the SMA and applicable guidelines, and if the segment provides a level of protection of critical areas at least equal to that provided by critical area ordinances.

Master Program Appeals - Growth Management Hearings Boards. Growth Management Hearings Boards (GMHBs) may review appeals of proposed master programs or amendments for compliance with specific internal consistency provisions of the GMA. GMHBs may also review appeals of proposed master programs or amendments for compliance with consistency provisions required for city and county development regulations.

Votes on Final Passage:

House	66	31	
Senate	45	0	(Senate amended)
House	98	0	(House concurred)

Effective: July 27, 2003

HB 1937
C 141 L 03

Excluding power wheelchairs from motor vehicle regulation.

By Representatives Murray, Holmquist, Romero and Hankins.

House Committee on Transportation
Senate Committee on Highways & Transportation

Background: Operators of non-motorized wheelchairs are regulated as pedestrians. It is unclear, however, whether operators of power wheelchairs are also subject to regulation as pedestrians or whether these motorized devices are subject to regulation as motor vehicles.

Summary: "Power wheelchair" is defined as a self-propelled vehicle capable of traveling no more than 15 miles per hour, usable indoors, and designed as a mobility aid operated by an individual with mobility impairments. Statutory definitions of motor vehicles, motorcycles, motor-driven cycles, and vehicles are revised to exclude power wheelchairs, and the definition of pedestrian is revised to include any person using a power wheelchair. No driver's license is required to operate a power wheelchair.

Votes on Final Passage:

House	96	0	
Senate	46	0	(Senate amended)
House	97	0	(House concurred)

Effective: July 27, 2003

SHB 1943
C 114 L 03

Modifying cigarette regulatory provisions.

By House Committee on Finance (originally sponsored by Representatives McIntire, Delvin, Conway, Gombosky, Armstrong, Clements, Edwards and Kenney).

House Committee on Finance
Senate Committee on Commerce & Trade

Background: A tax is imposed on cigarettes at the rate of 142.5 cents per pack of 20 cigarettes. The tax is due from the first person who sells, uses, consumes, handles, possesses or distributes the cigarettes in this state. 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.

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. Possessing unstamped cigarettes or counterfeit cigarette stamps is a gross misdemeanor. Engaging in the business of purchasing, selling, consigning, or distributing cigarettes without a license from the state is a misdemeanor.

There are no criminal penalties for manufacturing or selling counterfeit cigarettes, as long as the counterfeit cigarettes have tax stamps. The owner of a trademark can bring a civil action for injunctive relief and damages against persons manufacturing or selling counterfeit cigarettes that infringe on the trademark.

Summary: Only wholesalers may obtain or possess cigarette tax stamps. Wholesalers must not sell or provide stamps to any other person. Each roll of stamps, or group of sheets, provided to a wholesaler must have a separate and unique serial number. Retailers may obtain cigarettes only from a licensed wholesaler. These provisions do not limit any otherwise lawful activity under a cigarette tax compact with an Indian tribe.

The criminal classification for engaging in the business of purchasing, selling, consigning, or distributing cigarettes without a license is increased from a misdemeanor to a class C felony.

A counterfeit cigarette is defined as any cigarette, or its packaging, that resembles an authentic cigarette or package and has been manufactured by someone not authorized by the trademark or brand holder. The manufacturing, selling, or possessing for sale of counterfeit cigarettes is prohibited. A first offense is a class C felony punishable by up to five years in prison and a fine of up to $10,000. A subsequent offense is a class B felony which is punishable by up to10 years in prison and a fine of up to $20,000.

Votes on Final Passage:

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

Effective: July 27, 2003

HB 1954
C 247 L 03

Permitting a retired judge acting as a judge pro tempore to decline compensation.

By Representatives Moeller and McMahan.

House Committee on Judiciary
Senate Committee on Judiciary

Background: If no judge is available from among a county's elected superior court judges, a judge pro tem may be assigned to a case. Pursuant to court rule, an elected judge from another court may serve as a judge pro tem. Otherwise, the parties to the case may, with court approval, agree to any member of the Washington State Bar Association serving as a judge pro tem.

Pay for a judge pro tem is as follows:

- A sitting judge who is acting as a judge pro tem receives no extra pay.
- A member of the bar who is not a retired judge and who is acting as a judge pro tem receives 1/250th of a superior court judge's annual salary for each day of trial.
- A retired judge who is acting as a judge pro tem receives 60 percent of 1/250th of a superior court judge's annual salary for each day of trial.

In at least one county a retired judge has offered to serve as a judge pro tem without pay. However, the statute on pro tem pay has been interpreted to require payment.

Summary: A retired judge is authorized to decline compensation for serving as a judge pro tem in superior court.

Votes on Final Passage:

House	92	0
Senate	46	0

Effective: July 27, 2003

HB 1972

C 336 L 03

Making a retail fish seller's failure to account for commercial harvest a misdemeanor.

By Representative Hatfield.

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

Background: The Department of Fish and Wildlife (Department) is authorized to enforce the civil and criminal sanctions that appear in the Fish and Wildlife Enforcement Code (Code). Misdemeanor violations of the Code are punishable by up to 90 days in jail and a fine of up to $1,000. The Department is also directed to enforce the state's commercial fishing licensing laws.

Commercial fishers who wish to sell their product at retail or to a retailer must either hold a wholesale dealer's license or a direct retail endorsement. All fish that are commercially landed at a Washington port must be identified on a fish receiving ticket developed by the Department.

Summary: The misdemeanor of "retail fish seller's failure to account for commercial harvest" is created in the Code. A person may be found guilty of this criminal offense if:

- he or she sells fish or shellfish at retail;
- the product sold was required to be documented on a Department fish receiving ticket; and
- sufficient records are not maintained that specify the name and license number of the wholesale dealer who sold the fish to the retailer, the date of the purchase, and the amount of product bought from the wholesale dealer.

A holder of a wholesale dealer's license, or a direct retail endorsement, may not be found guilty of this misdemeanor.

Votes on Final Passage:

House	94	0	
Senate	49	0	(Senate amended)
House	91	0	(House concurred)

Effective: July 27, 2003

2SHB 1973

C 153 L 03

Promoting tourism.

By House Committee on Appropriations (originally sponsored by Representatives Veloria, McCoy and Kenney).

House Committee on Trade & Economic Development
House Committee on Appropriations
Senate Committee on Economic Development

Background: Washington is 68,139 square miles of diverse geography, geology, and climate. The west side of the state has ancient rain forests, miles of Pacific Ocean coastline, some of the state's largest cities and the Space Needle. The east side of the state is traditionally dry and sunny, with a big sky, wide open spaces, farms and ranches. There are also spectacular canyons, gorges and the Grand Coulee Dam. The state is divided by the majestic Cascade mountains. All in all, Washington offers many opportunities for tourists of all interests.

In 2000 over 25.9 million visitors enjoyed Washington parks. There are also thousands of licensed elk and deer hunters that take advantage of the outdoors. Sport fishermen and sport shellfishers enjoy the salmon, steelhead, and razor clams found in Washington.

Wildlife viewing is an increasing industry that generates $1.7 billion annually and supports 21,000 jobs in Washington. In fact, wildlife viewing is the fastest growing outdoor activity and segment of the travel industry. This activity thrives in the rural areas and the opportunities for wildlife viewing primarily occur on public lands.

Summary: The Department of Community, Trade and Economic Development (DCTED) is directed to promote Washington as a tourism destination to both national and international markets. The promotion should include nature-based and wildlife viewing tourism. The DCTED must also work with local communities and businesses to strengthen tourism opportunities and promotion. In addition, the DCTED is directed to coordinate its tourism planning in conjunction with local efforts, the Department of Fish and Wildlife and other appropriate agencies and private organizations. The plan should include efforts to promote nature-based tourism in Washington.

The DCTED may solicit and receive gifts, grants, funds, fees, and endowments for tourism promotion. The moneys collected must be deposited in the tourism development and promotion account and may be used for tourism promotion activities including hosting conferences and strategic planning workshops, conducting tourism studies, and providing marketing and technical assistance. No appropriation is required for expenditures from this account.

Votes on Final Passage:

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

Effective: July 27, 2003

EHB 1977
C 5 L 03

Clarifying use tax provisions.

By Representatives Grant, DeBolt, Orcutt and Roach.

House Committee on Finance

Background: The sales tax is paid on each retail sale of most articles of tangible personal property and certain services. Taxable services include construction, repair, telephone, lodging of less than 30 days, restaurant meals, physical fitness, and some amusement and recreation services.

The use tax is a companion tax to the sales tax. If the sales tax has not been paid then the use tax is owed. This may occur when a good is purchased out of state from a business that is not required to collect tax on behalf of Washington. Business taxpayers report use tax when they file their excise tax returns. When the sale of a good is exempted from the sales tax, the legislation usually provides a corresponding use tax exemption. Otherwise the use tax would apply.

Over time a number of sales tax exemptions have been adopted that exempted goods and repair and other services performed on these goods. Before 2002, however, use tax applied only to goods and generally not to services. Therefore, a use tax exemption for repair and other services was not included in the legislation that enacted these sales tax exemptions.

In the 2002 session, the Legislature enacted Senate Bill 6835, which imposed a use tax on the services of installing, repairing, cleaning, altering, imprinting, or improving tangible personal property. The sales tax already applied to these services and was collected on in-state activity. The principal intended effect of the bill was to impose use tax on those services when performed out of state on an item subsequently used in Washington.

SB 6835 did not include any use tax exemptions. For example, a use tax exemption was not included in SB 6835 for the repair of manufacturing machinery and equipment. The repair of manufacturing machinery and equipment is exempt from sales tax but SB 6835 made this repair service subject to use tax.

Summary: Use tax exemptions are created for installing, repairing, cleaning, altering, imprinting, or improving the following types of property:
- interstate transportation equipment;
- manufacturing machinery and equipment;
- warehouse material-handling and racking equipment;
- purchases by federal corporations providing aid and relief;
- prosthetics, orthotics, ostomic items, and hearing aids;
- public ferry vessels;
- movie production services;
- tangible personal property donated to a nonprofit organization or governmental entity;
- air pollution control facilities at the Centralia Steam Plant;
- agricultural field burning machinery and equipment;
- dairy nutrient management equipment;
- anaerobic digesters;
- public contracts for watershed protection or flood protection; and
- tangible personal property brought into Washington temporarily.

These exemptions are retroactive to June 1, 2002. The Department of Revenue is directed to refund any use taxes paid on these services.

Votes on Final Passage:

House	86	10
Senate	49	0

Effective: March 18, 2003

HB 1980
C 383 L 03

Changing work activity provisions under the TANF program.

By Representative Boldt.

House Committee on Children & Family Services

Senate Committee on Children & Family Services & Corrections

Background: In 1996 federal law abolished welfare as an entitlement and replaced it with a program called Temporary Assistance to Needy Families (TANF). In 1997 the Washington Legislature created Washington's own welfare reform program, the WorkFirst program, which was designed to comply with the federal requirements.

The WorkFirst program provides services to assist people to gain and maintain employment. Some of the specific services provided by WorkFirst include job search, education, jobs skills training, subsidized community jobs, and on-the-job training. In addition, there are services more tailored to the individual needs of the participant such as child care, transportation, substance abuse treatment, domestic violence counseling, and medical care.

The WorkFirst program utilizes two primary assessment tools. The first tool is the e-JAS screening/evaluation which is an automated tool for case managers, social workers, and job service specialists to screen for issues that can interfere with employment and retention. The second tool is the assessment which is a more comprehensive tool used by a social worker to gather detailed information about a participant's life and issues that may impact her or his ability to support the participant's family.

There is not a specific time set out in statute stating when an assessment must take place.

Summary: The Department of Social and Health Services must assess each WorkFirst recipient once he or she becomes eligible for the WorkFirst program and before referral to job search. Additionally, upon referral to job search, recipients must receive a job skills assessment.

A technical correction is made by deleting language that references a section of the statute which was vetoed by the Governor when the original bill was passed in 1997.

Votes on Final Passage:

House	95	0	
Senate	46	0	(Senate amended)
House	91	0	(House concurred)

Effective: July 27, 2003

HB 1993
C 186 L 03

Authorizing the parks and recreation commission to rent certain undeveloped land for a term of forty years.

By Representatives Cooper, Sump, Berkey and Hinkle.

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

Background: The State Parks and Recreation Commission (Commission) is charged with the care, control, and supervision of all state parks. Certain powers and duties for the Commission are established in statute, including the authority to enter into agreements to rent undeveloped park land for grazing, agricultural, or mineral purposes for a term of not more than 10 years.

Summary: The State Parks and Recreation Commission may enter into agreements to rent undeveloped park land for grazing, agricultural, or mineral purposes for a term of not more than 40 years.

Votes on Final Passage:

House	91	1
Senate	45	4

Effective: July 27, 2003

HB 2001
C 344 L 03

Providing property tax exemptions for nonprofit organizations supporting artists.

By Representatives Murray, Skinner and Hudgins.

House Committee on Finance
Senate Committee on Ways & Means

Background: All property in this state is subject to the property tax each year based on the property's value, unless a specific exemption is provided by law.

Several property tax exemptions exist for nonprofit organizations. Examples of nonprofit property tax exemptions are: character building, benevolent, protective or rehabilitative social service organizations; churches and church camps; youth character building organizations; war veterans organizations; national and international relief organizations; federal guaranteed student loan organizations; blood, bone and tissue banks; public assembly halls; medical research or training facilities; art, scientific, and historical collections; sheltered workshops; fair associations; humane societies; water distribution property; schools and colleges; radio/television rebroadcast facilities; fire company property; daycare centers; free public libraries; orphanages; nursing homes; hospitals; outpatient dialysis facilities; homes for the aging; day care centers; performing arts properties; homeless shelters; and blood banks.

Property tax exempt property must be used exclusively for the actual operation of the activity for which exemption was granted. The property may be loaned or rented if: (a) the rent received for the use of the property is reasonable and does not exceed maintenance and operation expenses; and (b) except for public assembly halls and war veterans organizations, the organization renting the property would be exempt from tax if it owned the property.

Summary: The real and personal property of non-profit organizations that use the property for soliciting gifts, donations, and grants for individual artists is exempt from property tax. The organization must be nonsectarian, exempt under 501(c)(3) of the Internal Revenue Code, governed by a volunteer board of at least eight members, and use the gifts, donations, and grants to support individual artists in the production or performance of musical, dance, artistic, dramatic, or literary works.

Votes on Final Passage:

House	92	3	
Senate	48	0	(Senate amended)
House	91	0	(House concurred)

Effective: July 27, 2003

SHB 2007
C 137 L 03

Prohibiting unsolicited commercial text messages.

By House Committee on Technology, Telecommunications & Energy (originally sponsored by Representatives Nixon, Ruderman, Bush, Dickerson and Hudgins).

House Committee on Technology, Telecommunications & Energy
Senate Committee on Technology & Communications

Background: Commercial messages that are sent by telephone or by the Internet are subject to state and federal regulations. Text messages sent by a fax machine are also regulated. However, text messages sent to cellular phones or pagers do not fall within their regulations and restrictions.

State telemarketing laws prohibit unfair or deceptive commercial telephone solicitations. Commercial telephone solicitors must not make any calls before 8 a.m. or after 9 p.m., and a commercial solicitor may not engage in any conduct that intimidates or harasses a person in connection with the telephone call. Commercial solicitors must also be registered with the Department of Licensing prior to doing business in the state. Federal rules restrict the use of the telephone network for unsolicited commercial messages including faxed messages.

Commercial electronic mail (e-mail) messages that contain deceptive or false information may not be sent from a computer located in Washington or to an e-mail address held by a Washington resident. A violation occurs when the message: (1) uses a third party's Internet domain name without permission of the third party, (2) misrepresents any information in identifying the point of origin or transmission path of the message, or (3) puts false or misleading information in the subject line of the message. A commercial e-mail message is an e-mail message sent for the purpose of promoting real property, goods, or services for sale or lease.

A recipient of a commercial e-mail message or the Internet service provider may bring a civil action against a sender who violates the laws relating to commercial e-mail messages. In the case of a suit brought by a recipient, the penalty is the greater of $500 or actual damages incurred. In the case of a lawsuit brought by an Internet service provider, the penalty is the greater of $1,000 or actual damages. A violation of laws relating to commercial e-mail messages is also a violation of the Consumer Protection Act and may be enforced by the Attorney General. A violation of the Consumer Protection Act may result in a civil fine, treble damages, court costs, and attorneys' fees.

Summary: Commercial electronic text messages may not be sent by businesses in the state of Washington to a telephone number assigned to a Washington resident for cellular or page service equipped with short message capability. A commercial electronic text message is a message sent to promote real property, goods, or services for sale or lease. An electronic text message is a message sent to a cell phone or a pager equipped with short message service. The message can be initiated as a short message or as an e-mail message.

Certain messages are exempt from this prohibition. A cellular or pager service provider may send commercial text messages to existing subscribers at no cost to the subscriber unless the subscriber has indicated they are unwilling to receive these text messages. A sender of an unsolicited commercial text message may send messages to a subscriber only if the subscriber has consented in advance to receive these messages.

A cellular phone or pager service provider may not be held liable for acting merely as an intermediary between the sender and the recipient of a commercial electronic text message sent in violation of the law, but may be liable if they knowingly assist in transmitting messages sent in violation of the law. A wireless network is not considered a initiator of an electronic mail message if the wireless network is the intervening transmitter of the message.

A violation of the commercial electronic text messaging law provides penalties similar to those for commercial e-mail messages. A recipient of a commercial electronic text message or the cellular or pager service provider may bring a civil action against a sender who violates the laws relating to commercial electronic text messages. In the case of a suit brought by a recipient, the penalty is the greater of $500 or actual damages incurred. In the case of a lawsuit brought by a cellular or pager service provider, the penalty is the greater of $1,000 or actual damages. A violation of laws relating to commercial electronic text messages is also a violation of the Consumer Protection Act and may be enforced by the Attorney General. A violation of the Consumer Protection Act may result in a civil fine, treble damages, court costs, and attorneys' fees.

Votes on Final Passage:

House	96	0	
Senate	47	0	(Senate amended)
House	97	0	(House concurred)

Effective: July 27, 2003

2SHB 2012
C 133 L 03

Creating a special services pilot program.

By House Committee on Appropriations (originally sponsored by Representatives Fromhold, Cox, Kenney, Hunter, Quall, Moeller, Chase and Santos).

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

Background: Proponents of early intervention approaches in education, including approaches aimed at less labeling of students, cite to the various desirable outcomes achieved by such approaches:

- reduced growth in special education eligible populations;
- increases in the percentage of students meeting state academic standards;
- increased emphasis on prevention of academic failure;

- increased rated of students graduating from high school;
- increased emphasis on accountability for academic outcomes; and
- reduced risk of incurring sanctions under the Elementary and Secondary Education Act (ESEA).

In 1991, at the request of the Legislative Budget Committee (LBC), the Legislature authorized certain K-12 special services demonstration projects. The LBC's 1993 report regarding the nine demonstration projects indicated: (1) intensive testing has little diagnostic value and is often unconnected with the special education interventions subsequently authorized for the students; and (2) over regulation at the state and federal level often results in uncoordinated programs with excessive paperwork to comply with categorical program rules.

Summary: A four-year pilot program is established to provide early intensive intervention services in reading and language. The objective is to reduce the number of children who eventually may require special education. Two districts will be selected by the Office of Superintendent of Public Instruction (OSPI) by June 2003.

Pilot program funding will consist only of sources other than special education moneys. Participating districts will receive state funding by separate appropriation for the pilot program. The amount of pilot program funding will be equal to the district's special education funding for its average percentage special education enrollment for the 2001-2002 and 2002-2003 school years minus the district's annual actual funding for special education.

Participating districts must use multiple diagnostics to identify individual student literacy needs and use research-based instructional interventions to address individual student deficits in reading and language. Parents must be informed of diagnosed needs, be given the opportunity to participate in designing interventions, and be encouraged to actively participate in the learning process.

Districts also must report progress annually to the OSPI and agree to participate in an evaluation of the program, including the contribution of funds and staff expertise for the design and implementation of the evaluation. Annual progress reports must include objective measures showing progress toward achieving the goals of the program.

By December 15, 2006, the OSPI must report to the Governor and the Legislature on the effectiveness of the program. The pilot program expires June 30, 2007.

Votes on Final Passage:

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

Effective: May 7, 2003

SHB 2027

C 113 L 03

Regulating the sale of cigarettes.

By House Committee on Technology, Telecommunications & Energy (originally sponsored by Representatives Kirby, Delvin, Morris, DeBolt and Sullivan).

House Committee on Technology, Telecommunications & Energy

Senate Committee on Technology & Communications

Background: The federal Jenkens Act requires interstate shippers of cigarettes to notify a state each month of the company's intent to ship cigarettes into that state. The Department of Revenue (Department) is the agency designated to receive this notice for Washington.

The Liquor Control Board (Board) administers tobacco regulation and taxation. Washington law imposes excise ($1.425/pack) and sales taxes (6.5 percent state tax, plus up to 2 percent local sales tax) on cigarettes, and requires sellers to place tax stamps on cigarettes to indicate that the excise tax has been paid.

The state Minors' Access to Tobacco Products Act (Act) limits youth access to tobacco products and is administered by the Board. The Act requires warnings that tobacco sales to anyone under age 18 are illegal, imposes restrictions on free samples of tobacco products, and restricts the placement of tobacco vending machines.

State law makes selling or giving cigarettes to anyone in Washington under the age of 18 a misdemeanor. There are also separate provisions for civil penalties for businesses who sell tobacco to minors.

Summary: Delivery sales are orders for cigarettes taken by telephone, mail, or the Internet delivered by delivery service. Anyone making delivery sales of cigarettes must ensure that no sales are made to persons under the age of 18 and comply with notice, delivery, and tax requirements.

Anyone offering delivery sales of cigarettes must register with the Board. Sellers must provide the Board with their business name and address and must file a disclosure statement with the Board each month. This disclosure statement must list each person who has received a delivery sale of cigarettes, along with the amount and product purchased.

When a purchaser places an order for a delivery sale of cigarettes, the seller must verify the age of the purchaser either by photocopy of the purchaser's identification or through a commercial database. The seller must then mail or e-mail the purchaser a disclosure that contains the federal tobacco warning, a warning that sales to minors are unlawful, and a statement that cigarettes are taxable.

Sellers must use a private delivery service which will ensure that cigarettes are not delivered to anyone under age 18.

Anyone violating these provisions is subject to criminal penalties. Shipping cigarettes without first obtaining proof of age is a class C felony. A second or subsequent offense is a class B felony. Any delivery service that delivers cigarettes without first verifying the age and identity of the recipient of a delivery sale is guilty of a gross misdemeanor. The unlawful delivery sales of cigarettes is included in the Criminal Profiteering Act.

Cigarettes seized under these provisions will be disposed of under existing state law.

Votes on Final Passage:

House	96	0	
Senate	49	0	(Senate amended)
House	97	0	(House concurred)

Effective: July 27, 2003

EHB 2030

C 79 L 03

Changing requirements regarding state and local tax to provide for municipal business and occupation tax uniformity and fairness.

By Representatives Kessler, Cairnes, Talcott, McDonald, Schindler, Shabro, Pearson and Holmquist; by request of Governor Locke.

House Committee on Finance
Senate Committee on Ways & Means

Background: Thirty-seven cities impose business and occupation (B&O) taxes on the gross receipts of activities conducted by businesses without any deduction for the costs of doing business. The Legislature limited city B&O taxes to a maximum rate of 0.2 percent in 1982, but higher rates are allowed if approved by the voters in the city, or if a higher rate was in effect prior to January 1, 1982. Cities imposing a B&O tax for the first time after April 22, 1983, and cities increasing tax rates, must provide for a referendum procedure to apply to the ordinance imposing or increasing the tax.

City B&O taxes, like the state B&O tax, include certain terms and definitions that provide the structure for the tax base and rate classifications. Common classifications include manufacturing, wholesaling, retailing, and services. Also like the state B&O tax, city B&O taxes include provisions concerning the reporting periods for taxpayers to remit B&O taxes, the time period over which tax liabilities or refunds may be assessed, penalties, and interest rates for late payment or refunds. City B&O taxes may also provide exemptions from tax for a particular business activity.

A city with a B&O tax imposes the tax on a business if the city determines that there is nexus. Nexus has been interpreted to mean that the business has some sort of physical presence inside the city and that some portion of the business' activity (e.g., relating to a sales transaction) occurs within the jurisdiction. Cities have held that physical presence may be established a number of ways, such as by the rental of office space or through a salesperson who operates within the jurisdiction. Cities have held that sufficient activity for nexus purposes is also evidenced in various ways, from the signing of a contract within the jurisdiction, to the loading of items from a warehouse (even though the sale may not originate or be consummated in the city), to the occurrence of an actual sales transaction within the jurisdiction's boundaries. The court has upheld broad interpretations of nexus with respect to the rationale for imposing taxes.

If nexus is established, the city may assert a B&O tax on the entire value of the transaction or particular activity involved. Thus, for example, in the case where items are loaded for delivery from a warehouse in a city with a B&O tax, the city could impose the tax on 100 percent of the income derived from the associated sale, irrespective of whether the sales transaction or delivery occurs within the city's boundaries. Because of the broad interpretation of nexus, two cities may simultaneously impose tax on income from the same sale or activity. Unless the cities' tax ordinances allow a credit for city B&O tax paid elsewhere on the same activity, the business may be subject to multiple taxation on income derived from a single activity.

In several state court cases, the court has upheld a city's imposition of its tax on an activity in which at least part of the value of the product or service that is taxed is derived outside jurisdictional boundaries. The court has held, in part, that as long as a "reasonable relationship" exists between the tax imposed by the city and the benefits conferred upon the taxpayer by the city, due process is not violated and the tax is allowable.

Generally, cities with B&O taxes in Washington have not permitted businesses to apportion income for taxation purposes. Apportionment refers to an approach under tax law whereby a multi-jurisdiction business is allowed to apportion, or divide, its taxable income among the jurisdictions in which it does business. Most apportionment laws involve use of a formula, in which the division of a business' income between jurisdictions is based on factors relating to sales income, property value, and/or payroll amounts. The effect is that a jurisdiction could impose a tax only on a portion of the total income earned.

In response to concerns regarding city B&O taxes, the Association of Washington Cities (AWC) developed a model municipal B&O tax ordinance in 2001. The model ordinance provides a basis for the use of uniform terminology, definitions, administrative provisions, rate classification structure, and exemption structure. A number of cities with B&O taxes have updated their ordinances to reflect this model ordinance.

Summary: The Association of Washington Cities (AWC) is required to adopt a model ordinance that will

provide a more uniform system of municipal business and occupation (B&O) taxes. The stated intent of the model ordinance, in addition, is to eliminate multiple taxation of business income while continuing to allow some local control and flexibility to municipal governments. The model ordinance is to consider business taxes only, not taxes on utility businesses.

In developing the model ordinance, the AWC must form a model ordinance development committee. The development of the ordinance must include a process to involve the public and must solicit input from stakeholders, including the business community. The Municipal Research and Services Center (MRSC) must post a copy of the model ordinance on its web site and make paper copies of the ordinance available upon request. In addition, the Department of Revenue and the Department of Licensing must post a copy of the ordinance on their web sites. Cities that impose B&O taxes must make copies of their ordinances available upon request.

The AWC may amend the model ordinance to comply with state law but is restricted from otherwise amending the definitions and classifications in the ordinance more frequently than every four years. After December 31, 2004, any city that imposes a B&O tax must comply with the provisions of this act.

The model ordinance must include a number of mandatory provisions: a system of credits that prevent multiple taxation of the same income; a gross receipts threshold for small businesses; tax reporting frequency requirements; provisions for penalties and interest; claim and refund provisions; and certain terms with definitions from the state B&O statutes or based on comparable definitions within the state B&O statutes. Deviations from the state B&O definitions must be noted in the model ordinance.

With the exception of the system of credits to prevent the multiple taxation of business income, cities are allowed to continue to adopt their own provisions for tax exemptions, credits, deductions, and other preferences, as well as tax classifications and tax rates. With respect to any nonmandatory provisions of the model ordinance, cities that deviate must make a description of the deviations available.

In order to provide for the prevention of multiple taxation, the model ordinance must include a system of credits. A credit must be allowed for:

- Retail or wholesale taxes due on sales of products for any manufacturing or extracting taxes paid on the same products;
- Manufacturing taxes on the value of products for any extracting taxes paid, or manufacturing taxes previously paid, on the same products; and
- Retail or wholesale taxes due on the sales of publications for any printing or publishing taxes paid on the same publications.

The model ordinance must include provisions for credits that will prevent the multiple taxation of business service income and income of any other classifications of businesses.

The model ordinance must also include a de minimus business activity threshold. A city may only tax a business that has earned gross receipts in excess of $20,000 in the jurisdiction. Cities that have a threshold higher than $20,000 as of January 1, 2003, and that choose to adopt a lesser threshold must first notify all businesses within the city.

The model ordinance must provide that cities with B&O taxes must allow for monthly, quarterly, or annual reporting of taxes. A city may require monthly reporting only in the case where the taxpayer also reports the state B&O taxes on a monthly basis. Payment is due at the same time that payment is required under state B&O statute.

The model ordinance must also provide that, with respect to assessments for underpaid tax and to refunds, cities must calculate interest in the same manner that the Department of Revenue (DOR) does for state excise taxes.

The model ordinance must provide that penalties must be imposed according the state B&O statutory requirements concerning penalties.

The model ordinance must also provide that the limitations on the length of the claim periods upon which assessments can be made or upon which refunds can be requested must be the same as the state B&O statutory requirements concerning such limitations.

The model ordinance must also include definitions for a number of terms. For terms that are not required to have a meaning identical to those in the state B&O statutes, the model ordinance must use as a baseline the definitions for the same terms in the state statutes, and any deviation from the state definitions must be noted in the ordinance.

In addition to the provisions concerning the model ordinance, a requirement is imposed on all cities with gross receipts B&O taxes that, in order to impose the B&O tax on a business activity, there must be nexus. Nexus is defined to mean business activities that are sufficient to subject the business to the taxing jurisdiction of the city under interstate commerce standards.

All cities that impose gross receipts B&O taxes must allow for the apportionment of business income by January 1, 2008. For activities other than services or income from royalties, income is allocated based on the location of the activity. In the case of a wholesale or retail sale, the location is based on the location of delivery to the buyer. If the location occurs in more than one jurisdiction, credit must be allowed for taxes paid on the same activity, or, in the case where not all the affected cities impose gross receipts taxes, an allocation system must be allowed. For income from royalties, income is allocated

to the commercial domicile of the taxpayer. For income from services, income is apportioned to a city by multiplying total taxable income by the average of a payroll factor associated with a city and a service-income factor associated with a city. The payroll factor is equal to the ratio of the compensation paid in a city to the total compensation paid everywhere. The service income factor is equal to the ratio of all service income of the taxpayer in a city to total service income of the taxpayer everywhere.

The taxpayer may petition the taxing jurisdictions to allow for an alternative method of apportionment if it is believed that the prescribed apportionment approach does not fairly represent the taxpayer's business activity. Alternative approaches may be based on methods relating to separate accounting; to a single-factor; to the prescribed approach, with the addition of other factors; or to another approach as may be deemed to provide an equitable allocation and apportionment of the taxpayer's income. After December 30, 2004, a city that fails to comply with the non-apportionment provisions of the bill may not impose a B&O tax.

The DOR is required to conduct a study of the potential net fiscal impacts of the bill. Emphasis must be placed on impacts attributable to the potential implementation of the apportionment requirements and the adoption of the model ordinance uniformity provisions. The DOR must consult with an advisory committee that includes representatives from business and from cities that impose B&O taxes. The DOR must report final results to the Governor and the Legislature by November 30, 2005, with progress reports by November 30 of 2003 and 2004. In its recommendations, the DOR must include options for mitigating any potential adverse revenue impacts to jurisdictions.

The DOR is also required to evaluate the terms with definitions in the model ordinance and report to the Governor and the Legislature by the end of calendar year 2004. The report must include the expected fiscal impact as the result of the adoption of the terms.

Votes on Final Passage:

House 73 25
Senate 32 17

Effective: July 27, 2003
January 1, 2008 (Section 13)

SHB 2033
C 194 L 03

Requiring regional transportation investment district tax revenue to be allocated proportionally among member counties.

By House Committee on Transportation (originally sponsored by Representatives Shabro, Conway, Priest, McDonald, Tom, Darneille, McMahan, Flannigan, Carrell, Campbell, Lantz, Talcott, Roach, Bailey, Kirby and Kristiansen).

House Committee on Transportation
Senate Committee on Highways & Transportation

Background: Regional Transportation Investment Districts were authorized by law in 2002 for the purpose of planning, selecting, funding, and implementing projects identified to address transportation needs in King, Pierce and Snohomish counties. Implementation requires at least two-contiguous counties forming a single district. A district is given several local voter-approved funding options, including a sales and use tax, vehicle registration fee, parking tax, and vehicle tolls.

The councils of King, Pierce, and Snohomish counties met in June 2002 as the planning committee to determine transportation investments in each of the three counties. The planning committee consists of the members of the county legislative authorities of the three counties, with votes weighted proportionally to population. Project lists have been identified by each of the counties and those projects are being evaluated for costs and funds available. Before a plan goes before the voters, each county council must approve the plan. There is no requirement on how the plan should distribute the funds for projects among the participating counties.

Summary: Revenues raised by a Regional Transportation Investment District must be allocated proportionally to member counties based on tax revenue generated and must be used for the benefit of the county within which they are generated. The district retains authority to manage debt and schedules, and revenues from the entire district may be pledged to support bonds issued by the district.

The transportation investment plan within a single county may be modified if: the district's board approves modifications that are limited to projects within the county; the modifications maintain equity among counties and do not increase expenditures within that county; and the voters within the county approve the changes. If the voters decline the plan modifications, the plan remains in place.

Votes on Final Passage:

House 90 7
Senate 46 1

Effective: July 27, 2003

HB 2038
C 342 L 03

Modifying tobacco escrow refund provisions.

By Representatives Gombosky and McIntire; by request of Attorney General.

House Committee on Finance

Background: The Tobacco Master Settlement Agreement (Agreement) is an agreement between two groups known as the "Settling States" and the "Participating Manufacturers." The Settling States consist of 46 states, the District of Columbia, and six territories. The Participating Manufacturers include the major tobacco companies and several smaller manufacturers. A group of tobacco manufacturers that did not sign the Agreement is known as the "Non-Participating Manufacturers."

Under the Agreement, Participating Manufacturers will make specified payments to the states and agree to abide by extensive public health restrictions on the advertising, promotion and marketing of cigarettes. In exchange, the states agreed to release the Participating Manufacturers from claims by the states. Non-Participating Manufacturers were not released from potential state claims and did not undertake any of the payment obligations or agree to abide by the public health restrictions. The Agreement included a proposed escrow statute (Model Statute) for states to adopt. The Model Statute requires Non-Participating Manufacturers to make annual payments into an escrow fund based on the number of cigarettes sold in the state. The Model Statute is intended to prevent Non-Participating Manufacturers from taking advantage of the fact that they do not make payments under the Agreement and are not bound by the public health, advertising and other restrictions under the Agreement. It is also intended to provide a fund from which a state that successfully sues a Non-Participating Manufacturer in the future can recover any judgment or settlement moneys. All Settling States enacted a Model Statute.

Money deposited in an escrow account is released to the Non-Participating Manufacturer after 25 years if not used before then to pay a judgment. The Model Statute permits a Non-Participating Manufacturer to obtain an earlier release of money from escrow to the extent that its escrow payments are greater than the state's allocable share of the total payments that manufacturer would have paid if the manufacturer had signed the Agreement. It appears that if a Non-Participating Manufacturer concentrates its sales in a single state or a few states, the early release formula in the Model Statute could result in refunds of the vast majority of the manufacturer's escrow deposits. A Non-Participating Manufacturer who is able to obtain these refunds could lower the price of its cigarettes in comparison to manufacturers who are making full payments under the Agreement, thereby obtaining a competitive advantage. In addition, the reduced escrow funds might not be sufficient for a state to recover judgments or settlement moneys against a Non-Participating Manufacturer. This depletion of escrow funds by certain Non-Participating Manufacturers was not contemplated when the Model Statute was enacted.

Summary: The formula for early release of escrow funds to a Non-Participating Manufacturer is altered so that the amount remaining in escrow is not less than the amount the manufacturer would have been required to pay if it had signed the Tobacco Master Settlement Agreement.

If a court finds this revision of the escrow release provisions is unconstitutional, the early escrow release provisions shall be eliminated entirely. If a court finds that elimination of the early escrow release provisions is also unconstitutional, the early escrow release provisions shall be restored as if no amendments had been made.

Votes on Final Passage:

House	88	0
Senate	47	0

Effective: July 27, 2003

SHB 2039

C 80 L 03

Providing affirmative defenses for activities defined under RCW 4.16.300.

By House Committee on Judiciary (originally sponsored by Representatives Fromhold, Carrell, Pettigrew, Cairnes, Lantz, Moeller, Newhouse, Armstrong, Grant, Quall, Woods, Roach, Hankins, Morris, Ericksen, Crouse, Condotta, Talcott, Holmquist, McMahan, Clements, Bailey, Clibborn, Kessler, Campbell, Hunter, Chandler, Gombosky, Schoesler, Ruderman, Miloscia, Kirby, Hinkle and Kenney).

House Committee on Judiciary
Senate Committee on Judiciary

Background: A statute relating to claims of any kind against builders, or other construction-related professionals, sets out special rules regarding the time during which a suit may be filed. This statute covers claims arising from activities with respect to improvements to real property, including surveying, planning, designing, engineering, constructing, altering, or repairing. In this context, "builder" includes persons engaged in any of these construction-related activities.

Any claim arising out of these activities must "accrue" within six years of the later of substantial completion of construction or the termination of the construction-related service. This six-year period is known as a statute of "repose." Accrual of a cause of action occurs when the plaintiff has the legal right and sufficient facts to bring suit. If a cause of action accrues within the six-year period of repose, then the applicable statute of limitations begins to run from the point of accrual. (The statute of limitations on a written contract, for instance, is six years.) If the cause of action does not accrue within the six-year period of repose, the suit is barred.

Recent court of appeals decisions have applied the "discovery" rule to cases involving alleged breaches of

construction contracts. That is, the cause of action does not necessarily accrue at the breach of the contract, but rather only when the breach is discovered or reasonably should have been discovered. The accrual, and therefore the discovery, must still occur within the six-year statute of repose, but:

- Without the discovery rule, the breach and therefore accrual would occur at the time of completion of construction; i.e., presumably nearer the beginning of the statute of repose – giving a builder a total period of exposure to liability that tends to be closer to six years.
- With the discovery rule, the discovery of the breach and therefore accrual might occur at the end of the statue of repose – giving a total period of builder exposure to liability that tends to be closer to 12 years.

Summary: Seven affirmative defenses are identified that builders may assert in an action based on any of the activities covered by the construction claims statute of repose. Successful assertion of any of these defenses may excuse, in whole or in part, a builder from any obligation, damage, loss, or liability. Three of the defenses are limited to claims by homeowners and four of the defenses apply to a claim by anyone regarding the activities listed in the statute of repose. One of the defenses eliminates the use of the discovery rule in cases involving construction contracts.

The defenses excuse an obligation, damage, loss or liability:

- to the extent it is caused by an unforeseen act of nature that prevented compliance with codes, regulations or ordinances. "Acts of nature" include weather, earthquake, war, terrorism, or vandalism.
- to the extent it is caused by a homeowner's unreasonable failure to minimize damages.
- to the extent it is caused by the homeowner's substantial failure to follow written maintenance recommendations.
- to the extent it is caused by the homeowner's alteration, use, misuse, abuse, or neglect.
- to the extent barred by the construction statute of repose or applicable statute of limitations. The statute of limitations in a claim based on a contract expires, regardless of discovery, at the later of: (1) six years after substantial completion of construction or (2) during the period within six years after termination of the activities identified in the statute of repose.
- with respect to a violation for which the builder has obtained a release.
- to the extent that the builder has repaired the violation or defect.

Votes on Final Passage:

House	96	0
Senate	45	4

Effective: July 27, 2003

SHB 2040
C 341 L 03

Establishing liability for taxes on unlawful or delinquent insurers or taxpayers.

By House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Santos and Benson; by request of Insurance Commissioner).

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

Background: The Insurance Commissioner (Commissioner) is authorized to collect premium taxes, including prepayments, from insurers, health maintenance organizations, and health care services contractors doing business in this state. Prepayments must be made for the current calendar year and are credited towards the total tax obligation owed for that year.

The Commissioner must assesses penalties against insurers that fail to make timely payments on their premium taxes. Under current law, neither health maintenance organizations nor health care services contractors are subject to such penalties. In addition, current law does not allow the assessment of penalties for failure to make timely prepayments.

Summary: Health maintenance organizations and health care services contractors are subject to the same penalties as are other insurers for failure to make timely payments on premium taxes. Penalties are authorized for failure to make timely prepayments on their premium taxes. The Commissioner must assess interest at the maximum legal rate on unpaid premium taxes and/or prepayments, commencing 61 days after the tax is due. The provision does not apply with respect to taxes owed by surplus lines brokers.

The premium taxes owed are apportioned so as to apply to only that portion of a premium related to risks or exposures located in this state, or enrolled participants residing in this state.

Those entities and/or individuals that engage in the unlawful solicitation or transaction of insurance business are subject to the same tax and penalty provisions as those that are lawfully doing business in Washington. Licensed surplus lines brokers are exempted from this provision.

Votes on Final Passage:

House	98	0
Senate	49	0

Effective: July 27, 2003

ESHB 2056
C 300 L 03

Modifying public works bidding provisions.

By House Committee on State Government (originally sponsored by Representatives Haigh, Armstrong and Miloscia).

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

Background: Design-Bid-Build. Public works projects include construction, building, renovation, remodeling, alteration, repair or improvement of real property owned by a public entity. Contracts of a medium estimated cost are awarded based on the traditional design-bid-build process, in which the public entity retains an architectural firm to design the facility, puts the construction phase of the project out for competitive bid, and awards the contract to the lowest responsible bidder. Under the traditional bid-build process, the public entity must publicize a request for bids in the official newspaper or a newspaper of general circulation at least 13 days prior to the date bids are due. The notice must state the nature of the work to be done and the date that sealed bids must be filed with the public entity. Each bid must be accompanied by a deposit of at least 5 percent of the amount of the bid. The public entity must award the contract to the lowest responsible bidder.

Design-Build and General Contractor-Construction Manager. Several state and local government bodies are authorized to use alternative public works contracting procedures for projects valued over $10 million. One procedure is the design-build procedure and the other is the general contractor/construction manager (GC/CM) procedure. The following government entities are eligible to use either procedure:

- Department of General Administration;
- University of Washington;
- Washington State University;
- cities with over 70,000 people and public authorities chartered by those cities;
- counties with over 450,000 people;
- public utility districts with revenues from energy sales over $23 million per year; and
- port districts with total revenues over $15 million per year.

The design-build procedure is a multi-step competitive process to award a contract to a single firm that agrees to both design and build a public facility that meets specific criteria. The contract is awarded following a public request of proposals for design-build services. Following extensive evaluation of the proposals, the contract is awarded to the firm that submits the best and final proposal with the lowest price.

Under the GC/CM procedure, a contract is awarded to a single firm for a guaranteed construction cost after competitive selection. The contract is to provide services during the design phase, and to act as both the construction manager and the general contractor during the construction phase. Use of the GC/CM procedure requires that the project meet specified criteria, such as the success of the project necessitates involvement of the GC/CM during the design stage. Following an extensive evaluation process, the government entity must award the contract to the firm that submits the final proposal scoring the highest based on outlined evaluation factors. The maximum construction cost guaranteed by the GC/CM is negotiated between the parties after the scope of the project is adequately determined.

The alternative public works contracting procedures expire July 1, 2007.

Summary: If a municipality receives a written protest from a bidder within two full business days of the bid opening, the municipality may not award the public works contract to anyone other than the protesting bidder without first providing at least two full business days' notice of the intent to award the contract. A low bidder who claims error and fails to enter into a contract is prohibited from bidding on the same project again if a second or subsequent call for bids for the project is made.

If a GC/CM building a public works project receives a written protest from a subcontractor bidder within two full business days of the bid opening, the GC/CM may not award the subcontract bid package to anyone other than the protesting bidder without first providing at least two full business days' notice of the intent to award the subcontract bid package.

Public hospital districts (PHD's) are added to the list of government entities eligible to use the alternative public works contracting procedures. PHD's with total revenues over $15 million a year may use the design-build procedure, or may use the GC/CM procedure as long as the project is approved by the PHD Project Review Board (PHD Board). PHD's with total revenues less than $15 million a year may use the GC/CM procedure as long as the project is approved by the PHD Board. The PHD Board may authorize an unlimited number of projects over $10 million, and up to 10 demonstration projects valued between $5 million and $10 million.

The PHD Board is created to select and approve qualified projects based upon an evaluation of information submitted by the hospital district. The members of the PHD Board must include representatives from:

- the Department of Health;
- the Office of Financial Management;
- the construction industry;
- organized labor;
- the design industry;
- a jurisdiction already authorized to use the alternative public works contracting procedures; and
- large and small public hospital districts.

Votes on Final Passage:

House	97	1	
Senate	48	0	(Senate amended)
House			(House refused to concur)
Conference Committee			
Senate	45	0	
House	98	0	

Effective: July 27, 2003

HB 2063
C 315 L 03

Extending the expiration date for reporting requirements on timber purchases.

By Representatives Kristiansen, Blake, Linville, Schoesler, Hatfield, Eickmeyer and Orcutt.

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

Background: Every harvester of timber is required to pay an excise tax of 5 percent of the stumpage value of any trees that he or she harvest. The excise tax applies to timber harvested from both private and public lands.

Every person who purchases more than 200,000 board feet of private timber in a voluntary sale is required to report certain information to the Department of Revenue (Department). Information that is required to be reported includes the sale date, the total sale price, total acreage involved in the sale, net volume of timber purchased, road construction that was required, data from the timber cruise, and any timber thinning information. The Department may assess a penalty of $250 for failure to report the required information.

Information gathered in the report is used by the Department to establish tables of stumpage values. A stumpage table is required to be prepared for each species of tree that is commercially harvested in Washington. The values on the tables indicate the amount that each species would sell for at a voluntary sale made in the ordinary course of business. The stumpage value tables are used to calculate the excise tax due from each timber harvester.

The requirement to report sales information to the Department expires on July 1, 2004.

Summary: The expiration date of the requirement that data about timber purchases be reported to the Department is extended from 2004 to 2007.

Votes on Final Passage:

House	96	0
Senate	48	0

Effective: July 27, 2003

EHB 2064
C 81 L 03

Studying methods of avoiding military base closure.

By Representatives Woods, Rockefeller, Bush, Lantz, Ahern, Hankins, Benson, Haigh, Sehlin, Morris, Bailey, Wood, Talcott, Ericksen, Edwards and Carrell.

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

Background: The 2002 National Defense Authorization Act requires that a fifth round of military base closings begin in March 2005. There have been four rounds of military base closings since 1988 with 451 installations closed to date. There are seven major military bases located in Washington, including:

- McChord Air Force Base;
- Fairchild Air Force Base;
- Whidbey Island Naval Air Station;
- Fort Lewis;
- Bangor Naval Shipyard;
- Bremerton Naval Shipyard; and
- Everett Naval Station.

The Base Closure Process. By February 2004 the Secretary of Defense (Secretary) must determine the number and type of military facilities needed to support the force-structure plan required to meet the threats to national security over the next 20 years. The base closing process will proceed only if the Secretary certifies that additional closures are warranted. If base closures are desired, the President will appoint a nine-member Defense Base Closure and Realignment Commission (Commission) to convene in March 2005 to vote on the list of base closures provided by the Secretary. The Commission will submit a final list of military bases to be closed or scaled back to the President by September 2005. The President and Congress each have to accept or reject the list as is.

As in previous base closure rounds, military value continues to be the primary criteria used to select military facilities for closure. However, for the 2005 base closure round, Congress has changed the definition of military value. The new definition emphasizes preserving military facilities as staging areas for homeland defense missions, as well as guaranteeing the present and future availability of sufficient air, ground, and sea training areas that are diverse in climate and terrain. Other criteria will be considered, such as the economic impact on existing communities in the vicinity of the military facility.

In a change from previous rounds, the privatization and economic redevelopment of a base selected for closure may occur only if the Commission recommends privatization as a method of closure for that specific facility.

Privatization of Military Base Support Services. Military base infrastructure costs are being reduced through Department of Defense programs that outsource and privatize base support services and activities. Examples include the military housing privatization initiative and the privatization of the on-base portion of military utility systems.

Summary: The Joint Committee on Veterans' and Military Affairs (Joint Committee) will conduct a study of Washington military facilities to determine and coordinate efforts needed to ensure that facilities retain their premier status with respect to their national defense missions. In conducting the study, the Joint Committee will:

- obtain an understanding of the mission of each military facility;
- examine the integral role of Washington facilities within the national defense structure;
- identify obstacles to the mission of each facility;
- examine laws, ordinances, requirements, rules, or regulations that impact each facility's mission;
- evaluate locally developed proposals intended to mitigate impact of military facilities on surrounding areas or the impact of nonmilitary activities in surrounding areas on the mission of military facilities; and
- study the economic impacts of the facilities on the Washington economy.

The Joint Committee will make recommendations to the Governor and the Legislature on actions needed to ensure the viability of military facilities, including:

- appropriate expenditures to ensure proper functioning and continued operation of military facilities within the state;
- required changes to laws, local ordinances, zoning requirements, rules, or regulations; and
- required federal actions.

As part of the study, the Joint Committee will invite participation and input from experts and will consult with representatives and non-elected community leaders of each county and city containing a major military facility, and the military authorities of each military base in the state.

The study will commence immediately after completion of the legislative session and will continue until such time as the consensus of committee membership is to conclude the study.

Votes on Final Passage:

House	96	0
Senate	45	0

Effective: July 27, 2003

HB 2065

PARTIAL VETO

C 370 L 03

Facilitating license plate technology advances.

By Representatives Simpson and Edwards.

House Committee on Transportation
Senate Committee on Highways & Transportation

Background: The license plate production system used by the Department of Licensing (DOL) has been in place since the 1920s and involves a labor intensive process of manually stamping each plate set, with the labor being provided by the inmates at the Walla Walla State Penitentiary.

On a national level, big strides have been made on the technology end of license plate manufacturing and several states are taking advantage of this. Computer driven manufacturing processes have been developed which allow all license plate information to be inputted and managed via a computer, and printed out almost instantaneously using digital technology. While this technology is attractive and would increase flexibility in manufacturing, the cost of implementing this type of technology in Washington is not known and absent a revenue source, would carry a significant impact on already limited resources.

Summary: The Department of Licensing (DOL) is required to implement a digital license plate system. The system must be in place and operational by July 1, 2004, and must be used to produce all license plates issued by the DOL by no later than January 1, 2007. All license plates must be obtained from the Department of Corrections.

The use of a non-standard background on vehicle license plates is authorized, allowing for variations in color and design, provided that the plate is legible and clearly identifiable as a Washington plate.

In providing for the replacement of license plates every seven years, the DOL is required to offer to vehicle owners the option of retaining their current license plate number. If an owner chooses to do so, the DOL must charge a retention fee of $20, with the revenue to be deposited in the newly created License Plate Technology Account until the financing necessary to implement a digital system has been paid in full, at which time the revenue will be deposited into the Multimodal Transportation Account.

The License Plate Technology Account (Account) is created and expenditures from the Account must support current and future license plate technology and systems integration upgrades for both the DOL and the Department of Corrections. Monies in the Account may be spent only after appropriation and may be used to reimburse the Motor Vehicle Account for any appropriation made to implement the digital license plate system.

An additional 25 cents is added to the current $3.50 filing fee paid by all vehicle owners at the time of registration. Proceeds from this fee are to be deposited in the Account.

The DOL must offer license plate design services to organizations that are sponsoring a new special license plate series or are seeking to redesign the appearance of an existing special license plate. The DOL must charge $1,500 for this service, which would include one original license plate design and up to five additional renditions of the original design. If an organization wants more than five renditions, the DOL must charge $500 per additional rendition. The revenue generated by this service must be deposited in the Account until the financing necessary to implement a digital system has been paid in full, at which time the revenue will be deposited into the Multimodal Transportation Account.

If this act is not referenced by bill or chapter number in the Transportation Appropriations Act by June 30, 2003, this act is null and void.

Votes on Final Passage:

House	52	45	
Senate	41	7	(Senate amended)
House	58	40	(House concurred)

Effective: July 27, 2003

Partial Veto Summary: The Governor vetoed the sections that would have: required the DOL to phase in a digital license plate system, starting on July 1, 2004, with full implementation required by January 1, 2007; established an optional $20 for vehicle owners wishing to retain their current license plate number; established fees which the DOL could have charged in exchange for providing license plate design services to an organization sponsoring a new special license plate series; and made the entire bill null and void if it was not referenced in the Transportation Budget bill by June 30, 2003.

VETO MESSAGE ON HB 2065

May 20, 2003

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 1, 2, 5 and 7, House Bill No. 2065 entitled:

"AN ACT Relating to license plate technology;"

This bill requires the Department of Licensing (DOL) to implement a flat, digitally printed license plate system and designates fees for this purpose.

Section 1 would have required DOL to phase in digital license plates starting July 1, 2004, with full implementation by January 1, 2007. For many decades, the Department of Corrections has produced embossed license plates, which are readable and durable, at a reasonable price. While the transition to digital license plates may afford some advantages, with so many other pressing transportation demands, the substantial six-year cost of $10.3 million is not warranted at this time.

Section 2 would have provided that for a fee of twenty dollars, vehicle owners may retain their current license plate number upon replacement. Section 5 would have established fees for the DOL design of special license plates. These sections provided that these fees be deposited into the license plate technology account for the financing of a digital license plate system. Only after the financing of such a system had been fully paid, would such fee revenues be eligible for deposit into the multimodal account. I have vetoed these sections because I prefer the unfettered distribution of these revenues to the multimodal account, as provided in Engrossed Substitute House Bill No. 2231, which I signed yesterday.

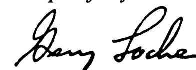
Section 7 would have provided that this bill is null and void if not referenced in the omnibus transportation appropriations act by June 30, 2003. Since I have vetoed sections 212(4) and 409 of the omnibus transportation appropriations act, Engrossed Substitute House Bill No. 1163, I have vetoed section 7.

Despite these section vetoes, I support the eventual transition to digital license plate technology, and have retained the twenty-five cent registration fee for deposit in the license plate technology account as provided in section 3. While we are saving for this transition, we can take a more deliberative approach to designing a system that best fits the state's needs. I have directed DOL to continue to explore new and innovative ways to utilize technology advancements to improve services and to provide the most cost- effective business practices possible. We will continue to work with the appropriate legislative committees to address the intent of section 1.

For these reasons, I have vetoed sections 1, 2, 5 and 7 of House Bill No. 2065.

With the exception of sections 1, 2, 5 and 7, House Bill No. 2065 is approved.

Respectfully submitted,



Gary Locke
Governor

EHB 2067
C 307 L 03

Permitting withdrawals of public ground waters.

By Representatives Schoesler and Cox.

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

Background: The Ground Water Code prohibits a person from withdrawing ground water or constructing wells or other works for such a withdrawal without a water right permit from the Department of Ecology. However, the code exempts a number of withdrawals from this requirement. One exemption is for single or group domestic uses in an amount not exceeding 5,000 gallons per day. In a recent decision of the state's Supreme Court, the Court found that this exemption did not allow the developer in the case to provide water for group uses by multiple homes each withdrawing up to 5,000 gallons per day.

Summary: The following is exempted, on a pilot project basis, from the water right permit requirements of the Ground Water Code: the domestic use of water for clustered residential developments not exceeding 1,200 gallons a day per residence for residential developments

of at least six homes. The developments must have an overall density equal to or less than one residence per 10 acres. The pilot project applies only in Whitman County. No new right to use water for a clustered development under the pilot project may be established where the first residential use of water for the development begins after December 31, 2015.

The Department of Ecology must report to the Legislature biennially through 2016 regarding the use of water under the pilot project and its impact on water resources in the county.

Votes on Final Passage:

House	96	0	
Senate	47	2	(Senate amended)
House	97	0	(House concurred)

Effective: July 27, 2003

HB 2073
C 240 L 03

Disposing of local government records.

By Representatives Schoesler, Romero and Cox.

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

Background: A county, city, or local government agency (local government) must request authority from the Local Records Committee (Committee) to destroy noncurrent public records having no further administrative or legal value. The Committee includes the State Archivist, a representative appointed by the State Auditor, and a representative appointed by the Attorney General. The Committee must review the list of such records and approve or veto the destruction of any or all items contained on the list. No public records may be destroyed until approved for destruction by the Committee.

Official public records may not be destroyed unless: (1) the records are six years old or more; (2) the department of origin has made a satisfactory showing that the retention of records for a minimum of six years is both unnecessary and uneconomical; or (3) the originals of public records less than six years old have been copied or reproduced by process approved by the State Archivist.

"Public records" include any paper, correspondence, completed form, bound record book, or any other document or copy that have been made by or received by any agency in connection with the transaction of public business.

Local government records designated by the State Archivist as having primarily historical interest may be transferred to a recognized repository agency.

Summary: A local government may, as an alternative to destroying noncurrent public records having no further administrative or legal value, donate the records to the state library, local library, historical society, genealogical society, or similar society or organization. The public records may be donated only if: (1) they are 70 years old or more; (2) the Committee has approved the destruction of the records; and (3) the State Archivist has determined that the records have no historic interest.

Votes on Final Passage:

House	96	0	
Senate	43	0	(Senate amended)
House	97	0	(House concurred)

Effective: July 27, 2003

ESHB 2076
C 130 L 03

Requiring a statewide strategic master plan for higher education.

By House Committee on Higher Education (originally sponsored by Representatives Kenney, Cox, Fromhold, Chase, Miloscia, Conway, Berkey, Upthegrove, Moeller, Wood and Schual-Berke).

House Committee on Higher Education
Senate Committee on Higher Education

Background: The Higher Education Coordinating Board (HECB) was created by the 1985 Legislature. It has responsibilities for planning and coordination; is assigned a variety of rule-making, regulatory, and administrative responsibilities; and manages an array of state financial aid programs.

Comprehensive Master Plan. The HECB is charged with identifying the state's higher education goals, objectives, and priorities. The HECB is also directed to establish role and mission statements for the various institutions, including the community and technical college system. Every four years the HECB updates a master plan for higher education, in consultation with public and private institutions and other state education agencies. The statute outlines a number of needs assessments to be included in the master plan, such as:

- basic and continuing needs of various age groups;
- business and industrial needs for a skilled work force;
- demographic, social, and economic trends;
- college attendance, retention, and dropout rates; and
- needs of recent graduates and placebound adults.

At the time of its creation, the HECB was directed to place its initial planning priorities on heavily populated areas underserved by public institutions. In addition the HECB recommends enrollment levels, tuition and fee policies, and priorities for financial aid based on comparisons with peer institutions.

When a new master plan is created, the HECB submits it to the Legislature for approval by concurrent

resolution. Once approved, the plan is intended to serve as the state's higher education policy. The next master plan is due to the Legislature by December 1, 2003.

In addition to the state master plan, institutions are supposed to develop their own institution-level plans and the State Board for Community and Technical Colleges (SBCTC) develops a system plan for community and technical college training and education.

HECB Regulatory Responsibilities. The HECB is responsible for reviewing and approving certain activities of the four-year institutions, including new degree programs and off-campus programs and education centers. There are no statutory criteria for this review. The HECB also evaluates and makes recommendations to the Governor and the Legislature on operating and capital budget requests from the four-year institutions and the community and technical college system. This review is based in part on the findings from the master plan.

Review of the HECB Mission. In a 2003 report the Washington State Institute for Public Policy found varying opinions among interview respondents about how the HECB is meeting its mission. Generally, the HECB's regulatory responsibilities were viewed less favorably than its administrative responsibilities. Many respondents spoke of the HECB role in planning as its most important function, at least in theory. There was, however, criticism of recent master plans.

Summary: Statewide Strategic Master Plan. The HECB is directed to develop a statewide strategic master plan for higher education that proposes a vision and identifies goals and priorities for higher education. The HECB will also specify strategies for maintaining and expanding access, affordability, quality, efficiency, and accountability. In addition to consulting with institutions and state education agencies, the HECB will seek input from the Council of Presidents, students, faculty organizations, community and business leaders, the Legislature, and the Governor.

The HECB's current responsibility to develop institutional role and mission statements forms a foundation for the plan. In performing this function, the HECB is also directed to determine whether certain major lines of study or types of degrees, including applied or research degrees, will be uniquely assigned to some institutions.

Most of the needs assessment information referred to in the current master plan is included in the new strategic master plan. New information for consideration includes: demand for opportunities for lifelong learning; technological trends and their impact on service delivery; and transfer rates.

The strategic master plan is required to have certain components. The HECB continues to recommend enrollment levels, tuition and fee policies, and priorities for financial aid. Enrollment recommendations will be based on forecasts and analysis of data about demand for higher education. Recommendations on tuition and financial aid policies are no longer required to be based on comparisons with peer institutions. New aspects of the plan include state or regional priorities for new or expanded degree programs or off-campus programs and for addressing needs in high demand fields. The plan will recommend policies to improve the efficiency of student transfer and graduation or completion. Finally, the plan must recommend specific actions to be taken and identify measurable performance indicators and benchmarks for gauging progress in achieving the state's goals and objectives for higher education.

The HECB must present the plan in a way that provides guidance for other planning and decision-making efforts by institutions, the Governor, and the Legislature. An interim statewide strategic master plan is due to the Legislature by December 15, 2003, to provide a framework for development of budget and policy proposals. The HECB publishes a final report incorporating any legislative changes by June of the year in which the Legislature approves a concurrent resolution adopting the plan.

In exercising its regulatory responsibilities regarding program approval and review of institution capital and operating budgets, the HECB must consider how the proposals align with and implement the statewide strategic master plan. The HECB must develop guidelines and objective decision-making criteria regarding approval of proposals. Institution-level plans (including the comprehensive plan prepared by the SBCTC for the community and technical college system) must implement the statewide strategic master plan and also contain measurable performance indicators and benchmarks.

Legislative Work Group. A legislative work group composed of members of the House and Senate higher education and fiscal committees is created to provide guidance for the statewide strategic master plan and review options pertaining to the HECB. The work group will define legislative expectations for the strategic master plan; make recommendations for ensuring coordination of capital and operating budgets with the plan; and examine opportunities to update the other roles and responsibilities of the HECB. The work group will report its findings and recommendations by January 2, 2004.

Votes on Final Passage:

House	96	0	
Senate	36	12	(Senate amended)
House	97	0	(House concurred)

Effective: July 27, 2003

ESHB 2088

C 394 L 03

Revising provisions relating to storm water rates and charges.

By House Committee on Agriculture & Natural Resources (originally sponsored by Representatives Schoesler, Chandler and Linville).

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

Background: Storm water sewer facilities may be operated by a variety of local governments, including counties, cities, towns, and water-sewer districts. Generally, these entities' authority to operate these systems includes the power to construct, acquire, maintain and operate sites and facilities for storm water drainage. These local governments generally are given full authority to establish the rates and charges for the services and facilities.

According to state law, rates and charges must be uniform for the same class of customers or service and facility. However, state statutes specify a variety of factors that may be considered when developing these rates and charges, including:

- services furnished;
- benefits received;
- land's character, use, or water runoff characteristics;
- land user's nonprofit public benefit status;
- land user's income level; or
- other matters presenting a reasonable difference as a ground for distinction.

Summary: Local governments operating storm water sewer facilities must reduce rates and charges for those facilities by a minimum of 10 percent for any new or remodeled commercial building that utilizes a permissive rainwater harvesting system. The rainwater harvesting system must be properly sized to utilize the available roof surface of the commercial building. Jurisdictions must consider rate reductions exceeding 10 percent depending on the amount of rainwater harvested. These provisions apply to storm water sewer facilities of counties, cities, towns, water-sewer districts, and county flood control zone districts.

Counties are prohibited from imposing storm water sewer system rates and charges on lands taxed as either forest land or as timber land according to state law.

Votes on Final Passage:

House	96	0	
Senate	36	13	(Senate amended)
House	97	0	(House concurred)

Effective: July 27, 2003

SHB 2094

C 219 L 03

Allowing detention of persons at outdoor music venues for investigation of drug and alcohol violations.

By House Committee on Criminal Justice & Corrections (originally sponsored by Representatives Holmquist, O'Brien, Hinkle, Darneille, Lovick and Ahern).

House Committee on Criminal Justice & Corrections
Senate Committee on Judiciary

Background: A person who detains another person may be subject to both criminal and civil liability.

Criminal Liability. A person may be held criminally liable for detaining another person under a variety of circumstances. For example, a person who knowingly restrains another person is guilty of unlawful imprisonment. Unlawful imprisonment is a class C felony with a seriousness level of III.

In a criminal action brought by reason of a person having been detained on the premises of a mercantile establishment to investigate whether the person shoplifted merchandise, it is a defense that:

- the person was detained in a reasonable manner;
- the person was detained no longer than a reasonable time to permit the investigation by a peace officer, the owner, or the owner's authorized employee or agent; and
- the peace officer, owner, or owner's employee or agent had reasonable grounds to believe the person was shoplifting.

Civil Liability. A person who detains another person can also be held civilly liable. For example, a person who intentionally confines or restrains another person in a bounded area can be held liable for false imprisonment.

In a civil action brought by reason of a person having been detained on the premises of a mercantile establishment for the purposes of investigating whether the person shoplifted merchandise, it is a defense that:

- the person was detained in a reasonable manner;
- the person was detained no longer than a reasonable time to permit the investigation by a peace officer, the owner, or the owner's authorized employee or agent; and
- the peace officer, owner, or owner's employee or agent had reasonable grounds to believe the person was shoplifting.

Summary: In a criminal or civil action brought against the detainer by reason of a person having been detained on or in the immediate premises of an outdoor music festival or related campground to pursue an investigation or to allow questioning by a law enforcement officer as to the lawfulness of the consumption of alcohol or illegal drugs, it is a defense that:

- the person was detained in a reasonable manner;

- the person was detained no longer than a reasonable time to permit the investigation or questioning by a law enforcement officer (this time may not exceed one hour); and
- a peace officer, owner, operator, employee, or agent of the outdoor music festival had reasonable grounds to believe that the person was unlawfully consuming or attempting to unlawfully consume or possess alcohol or illegal drugs on the premises. Reasonable grounds include, but are not limited to, exhibiting the effects of having consumed liquor and exhibiting the effects of having consumed illegal drugs.

"Outdoor music festival" is defined as an assembly of persons gathered primarily for outdoor live or recorded musical entertainment, where the predicted attendance is 2,000 persons or more. The definition does not apply to any regularly established permanent place of worship, stadium, athletic field, arena, auditorium, coliseum, or other similar permanently established places of assembly for assemblies that do not exceed, by more than 250 people, the maximum seating capacity of the structure where the assembly is held. The definition also does not apply to government sponsored fairs held on regularly established fairgrounds and assemblies required to be licensed under state laws or regulations other than chapter 70.108 RCW.

Votes on Final Passage:

House	84	12	
Senate	41	4	(Senate amended)
House	95	2	(House concurred)

Effective: July 27, 2003

SHB 2111
C 132 L 03

Exploring opportunities to create performance contracts between the state and institutions of higher education.

By House Committee on Higher Education (originally sponsored by Representatives Priest, Jarrett and Cox).

House Committee on Higher Education
Senate Committee on Higher Education

Background: During 2002 the Washington State Institute for Public Policy (Institute) conducted interviews with more than 70 key stakeholders as part of a legislatively-directed study of the Higher Education Coordinating Board (HECB). According to the Institute's report, many stakeholders view the state as "struggling to impose and maintain a regulatory relationship with its colleges and universities." The report also noted that tension between state centralization and institutional autonomy is not a new phenomenon.

For example, in 1993 the Legislature enacted a law declaring a "need to redefine the relationship between the state and its postsecondary education institutions through a compact based on trust, evidence, and a new alignment of responsibilities." The law intended to create a state policy where institutions would have authority and flexibility to meet statewide goals through locally-based decisions. In return for evidence of achieving desired results, the state would reduce its micromanagement of institutions. According to the Institute's report, the idea of this compact relationship has faded from view, possibly because it lacked an explicit mechanism to put it into operation.

Several other states, however, are experimenting with creating new relationships with one or more public institutions through performance compacts. In Kansas the Board of Regents has been directed by the Legislature to negotiate performance agreements with public institutions. West Virginia and Virginia are implementing compacts. Maryland and Colorado have chosen single institutions to pilot compacts (St Mary's College and the Colorado School of Mines).

A compact is a contractual agreement negotiated between the state (typically by the state governing board) and an institution's governing board. The agreement specifies measurable performance objectives which the institution commits to meet over the term of the compact and outlines the types of flexibility the state will offer in return.

Summary: A workgroup on higher education performance contracts is created. The group includes legislative members representing the higher education and fiscal committees of the House and Senate. The HECB and the State Board for Community and Technical Colleges each appoint one representative. The Council of Presidents (for the four-year institutions) and the Washington Association of Community and Technical Colleges (for the two-year institutions) each appoint two representatives. There is also a representative from the Governor's Office and the Office of Financial Management.

The workgroup will examine the experience of other states in developing and implementing contracts; consider the feasibility of implementing contracts in Washington; and identify whether amendments to current laws are needed. The workgroup will also develop guidelines and possible models for contracts, including the types of institutional performance indicators and benchmarks that could be in a contract and the types of flexibility, exemptions, or commitments from the state that could be in a contract.

A report with findings and recommendations is due to the Senate and House higher education and fiscal committees by December 15, 2003. The task force expires June 30, 2004.

Votes on Final Passage:

House	96	0	
Senate	49	0	(Senate amended)
House	97	0	(House concurred)

Effective: July 27, 2003

HB 2113

C 319 L 03

Regarding refunds of federal financial aid to students who withdraw from institutions of higher education.

By Representatives Morrell, Cox, Kenney, Fromhold, Jarrett, Chase, Priest, McCoy and Buck.

House Committee on Higher Education
Senate Committee on Higher Education

Background: Students who withdraw from courses or withdraw entirely from a college or university before the end of a semester or quarter may be eligible to receive a full or partial refund of their tuition, depending on when they withdraw. They also may be obligated to return some portion of any state or federal financial aid they received.

Tuition Refund. Four-year institutions are permitted, but not required, to refund tuition to students who withdraw according to a schedule that is outlined in statute. If the student withdraws before the fifth instructional day, 100 percent of tuition is refunded. If the student withdraws between the sixth and 30th calendar day, up to 50 percent of tuition is refunded. The statute is silent regarding refunds for withdrawal after the 30th day; in practice institutions provide no refund. Institutions may also adopt a different refund schedule if required by federal law to maintain eligibility for federal financial aid funds. In practice, two of the institutions (Eastern Washington University and Washington State University) have slightly different refund policies than the statutory schedule.

Federal Financial Aid Return. Since 2000 the schedule for return of federal financial aid from students who withdraw from college has been a scale based on the number of lapsed days in the semester or quarter at the time of withdrawal. If the student withdraws after 60 percent of the term has lapsed (approximately day 48 in a quarter system and day 65 in a semester system), no return is required.

The use of different calculation methods for tuition refunds and financial aid returns can lead to situations where students owe the federal government more in returned financial aid than they receive in refunded tuition (or vice versa).

State Financial Aid Return. The Higher Education Coordinating Board requires institutions to have a policy regarding return of state financial aid, but leaves it up to each institution to set the policy. For ease of administration, institutions generally follow the federal return schedule.

Summary: Four-year institutions of higher education may adopt tuition refund policies using the same formula the federal government uses for return of financial aid if withdrawing students would pay more back in financial aid than they receive in a tuition refund. The tuition refund policy may treat all students at the institution in the same manner.

Votes on Final Passage:

House	96	0
Senate	49	0

Effective: July 27, 2003

SHB 2118

C 154 L 03

Authorizing approved brewers to sell beer at farmers markets.

By House Committee on Commerce & Labor (originally sponsored by Representatives Newhouse and Sullivan).

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

Background: A microbrewery license authorizes production of up to 60,000 barrels of beer per year. There are 81 licensed microbreweries in the state, 31 of which bottle their beer. Microbreweries may obtain an endorsement for on-premises consumption of beer and wine.

Federal law imposes a lower excise tax rate on small breweries (breweries producing not more than two million barrels of beer per year). Only one brewery in Washington producing more than 60,000 barrels of beer per year qualifies for this reduced excise tax rate.

There is no specific authority allowing a microbrewery to sell bottled beer at a farmers market. Farmers markets are not regulated by statute, but a majority of markets belong to a voluntary association that sets guidelines regarding what kinds of products may be sold at a market. The association standards require that vendors at a market be predominantly Washington farmers selling their own produce.

Summary: Licensed microbreweries and small breweries qualifying for a reduced federal excise tax may obtain an endorsement to sell bottled beer at qualified farmers markets. This endorsement would not allow sampling or on-premises consumption at a farmers market. The annual cost of the endorsement is $75.

Before selling bottled beer at a qualified farmers market, the brewer must notify the Liquor Control Board (Board) monthly with the date, time, and locations of markets at which bottled beer may be sold. The brewery may not store bottled beer at a farmers market beyond the market hours. Breweries may not act as a distributor from a farmers market location.

A farmers market must be qualified by the Board before any brewer may sell bottled beer at the market. To apply for approval, a market must provide information about stall locations and the market manager.

Before approval, the Board must notify local jurisdictions of the application.

To be approved by the Board, a farmers market must be conducted primarily by Washington farmers selling their own produce or products, and the gross sales by vendors who are farmers must be greater than the combined gross sales of all other vendors.

Votes on Final Passage:

House	94	2	
Senate	43	4	(Senate amended)
House	96	1	(House concurred)

Effective: July 27, 2003

SHB 2132

C 323 L 03

Securing public building or construction contracts.

By House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Kenney, Schual-Berke, Santos and McDermott).

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

Background: Most public works construction in Washington is performed by private firms. State and local governments contract with private architectural and construction companies for the design and construction of facilities using specific procedures designated in statute. Typically, contractors, subcontractors, consultants, architects, the owner, and others involved in major public construction projects each obtain their own insurance or risk financing to cover their role or risk in the project.

A type of risk pooling known as a "wrap-up" insurance policy is routinely used on large private construction projects, and is used in other states on their public construction projects. A wrap-up insurance policy generally involves one large, comprehensive policy that covers the owner and all the companies involved in a construction project.

Absent explicit statutory authorization, public construction projects are prohibited from using wrap-up insurance policies. There are presently three types of public construction projects that have statutory authorization for the use of wrap-up insurance policies.

Summary: Public construction projects are authorized to use wrap-up insurance policies provided such projects: (1) are situated in counties with a population of over one million persons; (2) involve project costs of over $100 million; and (3) are administered for public hospitals.

Votes on Final Passage:

House	95	1	
Senate	47	0	(Senate amended)
House	95	2	(House concurred)

Effective: July 27, 2003
December 31, 2006 (Section 2)

EHB 2146

C 339 L 03

Providing tax incentives for wood biomass fuel production, distribution, and sale.

By Representatives Tom, Sullivan and Eickmeyer.

House Committee on Technology, Telecommunications & Energy
Senate Committee on Natural Resources, Energy & Water
Senate Committee on Ways & Means

Background: Liquid fuels can be produced from wood and wood residues. Two of the methods used for producing the oils that are used in fuel products are pyrolysis and gasification. Pyrolysis is the breakdown of biomass in the absence of oxygen at temperatures above 250C. The process produces a solid (char or charcoal), a liquid (bio-oil), and a mixture of gases. Much of the present interest in pyrolysis focuses on its liquid output (bio-oil) due to its high energy density (energy per unit of volume) and potential for liquid fuel substitution. Wood-derived bio-oil can be used through a process of gasification to produce synthetic liquid fuel for use as a transportation fuel. It can be blended at any percentage with petroleum diesel or gasoline or used as a pure product.

Business and Occupation Tax. The business and occupation (B&O) tax is Washington's major business tax. The tax is imposed on the gross receipts of business activities conducted within the state. Revenues are deposited in the State General Fund.

The B&O tax does not permit deductions for the costs of doing business, such as payments for raw materials and wages of employees. However, there are many exemptions for specific types of business activities as well as certain deductions and credits permitted under the B&O tax statutes.

Different tax rates apply to six separate categories of business activity. The processing of certain agricultural products is taxed at the rate of 0.138 percent. Manufacturing, wholesaling, and other activities are taxed at the rate of 0.484 percent.

Property Taxes. 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 the land. Personal property consists of all other property.

Leasehold Excise Tax. Property owned by federal, state, or local governments is exempt from the property tax. However, private lessees of government property are subject to the leasehold excise tax. The purpose of the leasehold excise tax is to impose a tax burden on persons using publicly-owned, tax-exempt property similar to the property tax that they would pay if they owned the property. The tax is collected by public entities that lease property to private parties.

Cities and counties may impose a local tax which is credited against the state tax. The state tax is deposited into the State General Fund, and county taxes are distributed to taxing districts within the county in the same manner as property taxes.

Holders of a leasehold interest in property prior to January 1, 1993, used primarily for the manufacture of alcohol fuels are exempt from the leasehold excise tax for a period of six years.

Retail Sales and Use Taxes. The state retail sales tax rate is 6.5 percent and is imposed on the retail sale of most tangible personal property and some services. In addition, local sales taxes apply. Cities and counties may levy a local tax at a rate up to a maximum of 3.1 percent; currently, local rates levied range from 0.5 percent to 2.4 percent. The combined tax rate is between a minimum of 7 percent and a maximum of 8.9 percent depending on the location of the purchase. Sales tax is paid by the purchaser and collected by the seller. Sales tax revenue is deposited in the State General Fund.

The use tax is imposed on the use of an item in this state when the acquisition of the item has not been subject to sales tax. The use tax applies to items purchased from sellers who do not collect sales tax, items acquired from out-of-state, and items produced by the person using the item. Use tax is equal to the sales tax rate multiplied by the value of the property used. Use tax is paid directly to the Department of Revenue. Use tax revenue is deposited in the State General Fund.

Distressed Area Sales and Use Tax Deferral Program. The Distressed Area Sales and Use Tax Deferral Program allows deferral of sales and use taxes for buildings, machinery, and equipment of manufacturing businesses as well as research and development businesses locating in specific geographic areas.

The geographic areas include rural counties with a population density of fewer than 100 people per square mile and areas designated as community empowerment zones or counties that contain a community empowerment zone. (Counties that do not qualify include Clark, Island, Thurston, and Snohomish.) Businesses that seek the deferral and are located in a community empowerment zone must also satisfy an employment requirement.

If the business requesting the deferral meets certain requirements for a period of eight years, the sales and use taxes are waived. This tax deferral program expires July 1, 2004.

Summary: Tax deferrals and exemptions are established for the manufacture, retail sale, and distribution of wood biomass fuel.

Sales and Use Tax Exemptions. Investment projects for the manufacture of wood biomass are eligible for the deferral of sales and use taxes under the same requirements and conditions as the existing Distressed Area Sales and Use Tax Deferral Program. Those requirements and conditions include a determination of eligible geographic areas, eligible investment projects, business reporting, and application requirements. An additional qualifying option includes counties under 225,000 in population and over 225 square miles in area. Participants in this deferral program will not be accepted after June 30, 2009.

Beginning July 1, 2003, and until June 30, 2009, a person who sells wood biomass fuels at retail may claim an exemption from state sales and use taxes paid on the purchase of machinery, equipment, and buildings used for retailing wood biomass fuels. Vehicles used for wood biomass distribution are also exempt from sales and use tax as long as the amount of wood biomass fuel they haul equals at least 75 percent of all fuel distributed by the vehicle. Qualifying fuels are fuels with at least 20 percent fuel derived from wood biomass.

Property and Leasehold Excise Tax Exemptions. Buildings, machinery, equipment, and other personal property used in the manufacture of wood biomass fuels, and the land on which this property is located, are exempt from property taxes for six years from the date the facility becomes operational. The amount of the exemption is based on the annual percentage of the total value of all products manufactured that is the value of the wood biomass fuels manufactured.

Wood biomass is added to the current alcohol fuel exemption of the leasehold excise tax. Participation in the exemption is reinstated for alcohol. No new participants based on either fuel will be accepted after January 1, 2010.

Business and Occupation Tax. For purposes of payment of the business and occupation (B&O) tax, those engaged in the manufacture of wood biomass fuels pay at the rate of 0.138 percent on their gross receipts.

Beginning July 1, 2003, and until June 30, 2009, a business may deduct from its B&O tax obligation the amounts it receives from the retail sale or distribution of wood biomass fuels.

Votes on Final Passage:

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

Effective: July 1, 2003
July 1, 2004 (Sections 1-8)

2ESHB 2151

C 8 L 03 E1

Prioritizing proposed higher education capital projects.

By House Committee on Capital Budget (originally sponsored by Representatives Alexander, Dunshee, Sommers, Cox and Sehlin).

House Committee on Capital Budget
Senate Committee on Ways & Means

Background: The state adopts a biennial Capital Budget each odd-numbered year, appropriating moneys for a variety of capital projects and programs. In preparation for this budget, state agencies and higher education institutions prepare and submit budget requests to the Governor's Office. The Governor then submits a budget request to the Legislature shortly before the legislative session.

A significant portion of Capital Budget appropriations goes to higher education institutions. There are six four-year institutions: The University of Washington, Washington State University, Central Washington University, Eastern Washington University, The Evergreen State College, and Western Washington University. These institutions are governed by regents or trustees, who have a significant amount of autonomy in the governance of their institutions. The 34 community and technical colleges are governed by the State Board for Community and Technical Colleges (SBCTC). Each of the six four-year institutions and the SBCTC provide Capital Budget requests for each biennium to the Governor's Office and the Legislature.

Capital Budget appropriations for higher education institutions typically fall into one of three categories: 1) providing access for students; 2) facility preservation and renovation; and 3) institutional mission. A recent study by the Joint Legislative Audit and Review Committee (JLARC) found that there is a significant backlog of facility infrastructure projects throughout higher education institutions. The report of the 2002 Capital Budget Interim Workgroup on Higher Education Facilities recommended that for the 2003-05 biennium priority be given to: 1) critical preservation projects at all institutions; and 2) providing access at the community and technical colleges. Preservation/renovation projects that were necessary for program suitability and mission at all institutions were also highlighted by the workgroup.

The Higher Education Coordinating Board (HECB) provides a ranking of projects by category. Projects within a category, such as preservation, are not prioritized by the HECB, but are listed alphabetically by institution and then by institutional priority. This list includes the community and technical colleges as well as the four-year institutions. The SBCTC ranks all of its recommended projects in priority order based on criteria that it developed with the 34 community and technical colleges.

Summary: Beginning with the 2005-2007 Capital Budget submittal, the four-year institutions and the two-year institutions will submit separate prioritized lists of major projects. The two-year institutions' list will be prepared by the SBCTC. The four-year list will be prepared by the four-year institutions in consultation with the Council of Presidents and the HECB. The HECB will generate the four-year list if the four-year institutions are unable to agree to a list or to complete the approval process. Beginning with the 2005-2007 Capital Budget submittal, the HECB will submit its Capital Budget recommendations and the separate two-year and four-year prioritized project lists to the Office of Financial Management (OFM).

For ranking repairs and renovations to existing systems, consideration must be given to the age and condition of buildings, program-suitability of the facility, and the utilization of the facility. For ranking new facilities, consideration must be given to existing capacity, space utilization levels, and projected enrollment and staffing. Minor works projects may be aggregated into priority categories.

In developing the rating/ranking of projects, the HECB must be provided with available information by higher education institutions, the OFM, and the JLARC. The HECB may also use independent service providers.

Votes on Final Passage:

House 98 0
First Special Session
House 91 1
Senate 45 2

Effective: September 9, 2003

SHB 2172

C 340 L 03

Promoting the purchase of fuel cells for the use of distributive generation at state-owned facilities.

By House Committee on Technology, Telecommunications & Energy (originally sponsored by Representatives Sullivan, Morris, Benson, Rockefeller, Wood and Hudgins).

House Committee on Technology, Telecommunications & Energy
Senate Committee on Natural Resources, Energy & Water

Background: A fuel cell operates like a battery with an external fuel source. It produces electricity through an electrochemical process. Activated by a catalyst, hydrogen and oxygen produce electricity and by-products of water, heat, and small amounts of carbon dioxide (CO_2). It does not run down or need recharging as long as fuel is supplied.

A number of fuel cell technologies are under development. The most commercially developed is a phosphoric acid fuel cell (PAFC) and it is being used in hotels, hospitals, and office buildings. The proton-exchange membrane (PEM) fuel cell is being tested for commercial application under an energy efficiency program through the Bonneville Power Administration. This fuel cell operates at low temperatures and can vary its output to meet demand. These cells are best candidates for light-duty vehicles, buildings, and smaller applications. Another fuel cell under development is the solid oxide fuel cell (SOFC). This is an option for high-powered applications such as industrial uses or central electricity generating stations.

There are a number of other fuel cell technologies under development for a variety of applications. Fuel cell research is being conducted in Washington at Pacific Northwest National Laboratories in Richland and Avista Labs in Spokane.

Fuel cells are not yet readily available to consumers but an increasing number of products are being tested for commercial application. Cost is also a factor in availability of fuel cells.

Summary: State agencies, when planning for capital construction or renovation, must consider the use of fuel cells and renewable or alternative energy sources as the primary source of power for applications that require an uninterruptible power source. State agencies must also consider these energy sources when purchasing back-up or emergency power sources.

The Department of General Administration is directed to develop a criteria to assist agencies in identifying fuel cell applications in state facilities.

Votes on Final Passage:

House	94	0	
Senate	48	0	(Senate amended)
House			(House refused to concur)
Senate	46	0	(Senate amended)
House	98	0	(House concurred)

Effective: July 27, 2003

HB 2183
C 145 L 03

Adjusting the amount allowed for unbid sewer and water projects.

By Representatives Ericksen and Romero.

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

Background: A number of different laws establish procedures for state agencies, local governments, and special purpose districts to award contracts for public works projects and to purchase materials, supplies, equipment, and services. Requirements vary, but generally a contract for a relatively small dollar value may be awarded without following a competitive bidding procedure, while a contract for a relatively medium or high dollar value may only be awarded following a competitive bidding procedure.

Procedures to award a contract of a relatively medium dollar value are called a "small works roster" procedure, if the contract is for a public works project, or a "vendor list" procedure, if the contract is for the purchase of materials, supplies, or equipment. Frequently, bid solicitations using these procedures require soliciting bids from only a limited number of contractors or vendors on the vendor list and include some sort of requirement to equitably distribute the opportunity to bid on proposals.

Procedures for awarding a contract of a relatively high dollar value must be made using formal competitive bidding requirements, including publishing a request for the submission of sealed bids.

A contract for a water-sewer district project exceeding $5,000 may only be let using either formal competitive bidding requirements or the small works roster process.

Summary: The threshold above which a water-sewer district may let contracts without competitive bidding procedures is raised from $5,000 to $10,000.

Votes on Final Passage:

House	96	0	
Senate	49	0	(Senate amended)
House	97	0	(House concurred)

Effective: July 27, 2003

HB 2186
C 349 L 03

Making an irrevocable choice to waive rights to the defined benefit under the plan 3 retirement systems.

By Representatives Fromhold, Armstrong and Sommers.

House Committee on Appropriations
Senate Committee on Ways & Means

Background: In the Public Employees' Retirement System (PERS), the School Employees' Retirement System (SERS), and the Teachers' Retirement System (TRS) Plans 1 and 2 of the state retirement systems, when vested members withdraw their employee contributions, the service credit that they have established in the plan is also withdrawn. Unless a member restores withdrawn contributions upon resuming employment at a later date, that service credit is lost to the member.

In PERS, SERS, and TRS Plan 3, the withdrawal of member contributions has no effect on the defined benefit portion of a vested member's benefit. Upon returning to covered employment a member may resume earning

service credit and making employee contributions to the defined contribution portion of their benefit without restoring employee contributions to the plan. The member's new employer will also make contributions that build additional service credit in the defined benefit portion.

In some circumstances, a member of Plan 3 may withdraw his or her defined contributions and leave the state permanently. Some members who have joined retirement plans in other states have had the opportunity to purchase service credit in their new plans for past years of service earned in Washington, essentially consolidating retirement benefits in the new plan.

Some plans in other states, for example the Public Employees' Retirement System of Mississippi and the New Jersey state retirement systems, prohibit the purchase of service when the new member retains eligibility for a benefit in another state retirement plan. Because a vested Plan 3 member has no method to relinquish rights to an allowance from the defined benefit portion of Plan 3, the member is permanently barred from purchasing service credit in states with prohibitions like those in Mississippi and New Jersey.

Summary: Vested members of PERS, SERS, and TRS Plans 3 who have withdrawn defined contributions from their member accounts may choose to irrevocably waive all rights to a defined benefit. A member choosing to waive a Plan 3 defined benefit must notify the Department of Retirement Systems in writing.

Votes on Final Passage:

House	94	0	
Senate	48	0	(Senate amended)
House	91	0	(House concurred)

Effective: May 16, 2003

SHB 2192

C 27 L 03 E1

Taxing parimutuel machines.

By House Committee on Finance (originally sponsored by Representatives Cody and Clements).

House Committee on Finance

Background: The parimutuel tax is a state tax that applies to the gross receipts of parimutuel machines within the state, used in connection with horse racing meets. Parimutuel wagering is a system of betting on races whereby the total amount wagered, less management expenses, is divided among the winners in proportion to the sums they have wagered individually. The rate of the base tax depends on whether the race is for-profit or nonprofit, and whether the annual receipts of the licensee in the previous year was greater than $50 million:

Race Type/Annual Receipts	Base Tax Rate
Nonprofit (maximum of 10 days/yr.)	0 percent
For profit	
Annual receipts less than $50 million	0.52 percent
Annual receipts at least $50 million	1.30 percent

Additional tax rates also apply: 0.1 percent, for the purpose of providing additional funding to support nonprofit race meets; and 1.0 percent, which applies only to the receipts of large race meets to provide additional prize money for the owners of the top four finishing horses.

The parimutuel tax applies to parimutuel wagering that occurs on-site at the race track and at off-track satellite betting facilities. For the purpose of determining odds and computing payoffs for a particular race, the track owner must combine the pool of wagers at both on-site and off-track locations. In addition to in-state races, parimutuel wagering is permitted on out-of-state races through simulcasts. Simulcasts are transmittals of live races that occur out-of-state, where the transmitted signals are received at track facilities or off-track satellite facilities.

Activity in the state horse racing industry has decreased in recent years. The only operating track is Emerald Downs, located in Auburn; facilities at Yakima Meadows and at Playfair in Spokane shut down in 1998 and 2001, respectively.

In June 2002 the State Horse Racing Commission (Commission) received an application for a license to conduct parimutuel horse racing at Playfair in Spokane. The Commission approved the license in October 2002, and racing is scheduled to commence in September 2003.

Revenues attributable to wagering activity at larger racetracks have historically been used to subsidize regulatory costs at meets at smaller and nonprofit racetracks. The Commission expects the gross receipts received from the racing activity scheduled at Playfair to be subject to the 0.52 percent tax rate and the annual tax revenues to be less than the costs of regulating the meets.

Summary: The parimutuel tax rate on the gross receipts of for-profit licensees whose annual receipts are less than $50 million is increased from 0.52 percent to 1.803 percent.

Votes on Final Passage:

House	84	8
First Special Session		
House	87	5
Senate	38	9

Effective: January 2, 2004

SHB 2196
C 206 L 03

Revising and reporting on state agency allotments.

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

House Committee on Appropriations
Senate Committee on Ways & Means

Background: Allotment Process. The Budget and Accounting Act assigns the Office of Financial Management (OFM) various budget planning, monitoring, and reporting requirements. The allotment process is a mechanism through which the OFM approves and oversees state agency expenditures.

In general, allotments are expenditure plans proposed by agencies and reviewed and approved by the OFM. Based on the appropriations in the budget bill, agencies must submit a statement of proposed expenditures to the OFM. (Additionally, many accounts are subject to the allotment process even though the accounts do not require an appropriation for expenditures.) The statement must break each appropriation into monthly detail that represents the best estimate of how the appropriation will be spent. Allotments must conform to any conditions or limitations placed on the appropriation that is being allotted. The OFM reviews the proposed allotments for reasonableness and conformance with legislative intent. After this review, the OFM approves or disapproves the proposed allotments, and it places the approved statement into the state budget, accounting, and reporting system. Allotments for the legislative and judicial branches and agencies headed by separately elected officials are placed into the accounting system, but are not subject to the OFM's approval.

Allotment Revisions. Once the OFM approves allotments, they may be revised only under certain circumstances. As a general rule, allotments may be revised only at the beginning of the second year of the fiscal biennium, unless there are changes in appropriated levels (as in a supplemental budget) or changes caused by across-the-board reductions.

Reporting of Variations from Allotments. The OFM must monitor agencies' expenditures against their allotments, and it must provide the Legislature with quarterly explanations of major variances.

Summary: Allotment Revisions. The Governor may request correction of allotments proposed by the judicial and legislative branches and by agencies headed by separately elected officials if the proposed allotments contain significant technical errors.

At the OFM's request or on an agency's own initiative, allotments may be revised on a quarterly basis. Allotments may also be revised to reflect executive increases to spending authority. Examples of this kind of increase include expenditures approved through the unanticipated receipts process or expenditures from the Governor's emergency fund. The allotment revisions must include a statement of the reasons for significant changes in the allotments.

Reporting of Variances from Allotments. The OFM is no longer required to provide a quarterly allotment variance report to the Legislature.

Votes on Final Passage:

House	95	0
Senate	49	0

Effective: July 1, 2003

SHB 2197
C 92 L 03

Implementing Initiative Measure No. 790.

By House Committee on Appropriations (originally sponsored by Representatives Conway, Benson, Grant, McDonald, Dunshee, Cox, Ruderman, Buck, Miloscia, Delvin, Cooper, Hinkle, Gombosky, Campbell, Simpson, Linville, Hunt, Berkey and Bush).

House Committee on Appropriations
Senate Committee on Ways & Means

Background: The Law Enforcement Officers' and Fire Fighters' Retirement System Plan 2 (LEOFF 2) Board (Board) was created by the passage of Initiative 790 (I-790) in November 2002. The Board comes into existence on July 1, 2003, which is the effective date of all parts of I-790, except the requirement that the Department of Retirement Systems (DRS) and the Office of the State Actuary prepare and submit "proposed legislation for implementing" I-790 to the Legislature's fiscal committees by January 15, 2003.

I-790 provides that the Board will choose the economic assumptions and actuarial methods, and will set the contribution rates for LEOFF 2 employees, employers, and the state, based on consultation with an enrolled actuary retained by the Board. The actuary retained by the Board must use the aggregate actuarial cost method or other recognized actuarial method based on the principle of funding benefits with level percentage of payroll. The actuary retained by the Board must provide his or her analysis to the State Actuary, and if the two do not agree, a third independent enrolled actuary is jointly chosen by the Board actuary and the State Actuary to resolve the differences.

No amendments to pre-existing retirement statutes were made by I-790. Under those statutes, the Pension Funding Council (PFC) adopts the economic assumptions and contribution rates for the plans of Washington retirement systems by September 30 of even-numbered years, subject to Legislative modification. This biannual rate adoption cycle allows the PFC rates to be incorpo-

rated into the state biennial budget process. However, I-790 provides that the PFC "shall have no applicability or authority over matters relating to (LEOFF 2)."

The supplemental contribution rate process provides for additional contributions to be automatically collected from employees, employers, and the state when laws are enacted creating new benefits in Washington retirement systems. No legislative action is required for a supplemental rate to be assessed apart from passage of a bill that creates a new benefit. The State Actuary calculates the required contribution rates, sends the rates to the Director of the DRS, and the Director collects the new rates from employers, employees, and the state. When the PFC subsequently adopts new contribution rates, the supplemental rate is effectively incorporated into basic employee, employer, and state contribution rates adopted for each plan.

The DRS administers LEOFF 2 and the other plans of the Washington retirement systems. The cost of administering the retirement plans is funded through the DRS Expense Fund. Employers are assessed an additional contribution rate, calculated as a percentage of retirement system member salaries, sufficient to defray the costs of administering the retirement plans. I-790 specifies that the operating expenses of the Board are to be paid from the earnings on the LEOFF 2 retirement funds, incorporated into the calculated cost of the plan as a whole.

Summary: The PFC employer contribution rate-setting statute is amended to remove the authority to adopt rates for LEOFF 2. No later than September 30, 2004, and every two years thereafter, the Board adopts the contribution rates for LEOFF 2. The Board calculates the rates using the Board actuary and State Actuary methods and processes specified in I-790. The contribution rates adopted by the Board are subject to legislative modification.

The supplemental rates automatically collected to fund benefit improvements to LEOFF 2 are calculated by the Board actuary and the State Actuary through the same methods and processes specified for the basic employee, employer, and state contribution rates in I-790.

A LEOFF 2 Expense Fund is created within the LEOFF 2 retirement fund. The State Investment Board must invest money in the Expense Fund and allocate from the LEOFF 2 Retirement Fund to the Expense Fund the amounts necessary to cover the expenses of the Board. The LEOFF 2 Expense Fund is subject to the allotment of expenditures by the Office of Financial Management. The Board may spend from the LEOFF 2 Expense Fund without appropriation.

All expenses of the State Actuary and the DRS related to the Board and the implementation of I-790 are reimbursed from the LEOFF 2 Expense Fund.

Votes on Final Passage:

House	97	0
Senate	49	0

Effective: April 23, 2003

SHB 2198
C 93 L 03

Removing the allocation of excess earnings from section 6 of Initiative Measure No. 790.

By House Committee on Appropriations (originally sponsored by Representatives Cooper, Delvin and Simpson).

House Committee on Appropriations
Senate Committee on Ways & Means

Background: The Law Enforcement Officers' and Fire Fighters' Retirement System Plan 2 (LEOFF 2) Board was created by the passage of Initiative 790 (I-790) in November 2002. The LEOFF 2 Board and most of the provisions of the I-790 come into existence on July 1, 2003.

Section 6(5) of I-790 states that "all earnings of the trust in excess of the actuarially assumed rate of investment return shall be used exclusively for additional benefit for members and beneficiaries." This language has been interpreted in several ways.

The "actuarially assumed rate of investment return" is among the base assumptions about the future, including inflation rates, salary increases, and membership growth that are incorporated into actuarial calculation of the contribution rates for the state retirement plans. The actuarially assumed rate of investment return used for Washington retirement systems is 8 percent per year.

The interpretation of Section 6(5) by the Office of the State Actuary (OSA), developed for the Office of Financial Management's (OFM) Voter Pamphlet Fiscal Impact Statement, indicated a large increase in LEOFF 2 contribution rates resulting from the change. Two other alternative interpretations were also provided by the OFM, one with a reduced but still substantial cost, one with essentially no cost.

Existing funding methods include all projected earnings to pay for future benefits, both those above and below the projected rate of return. As earnings in excess of the actuarially assumed rate are set aside for additional benefits, the analysis provided by the OSA indicates that additional contributions are required to maintain the current benefits of LEOFF 2. The amount of additional contributions required depends on the method of identifying excess earnings and the resulting amount that the assumed rate of investment return effectively decreases.

Summary: The subsection enacted by Initiative 790 stating that for the LEOFF 2, "all earnings of the trust in excess of the actuarially assumed rate of investment return shall be used exclusively for additional benefit for members and beneficiaries" is repealed.

Votes on Final Passage:

House	95	0	
Senate	49	0	

Effective: April 23, 2003

SHB 2202
C 400 L 03

Providing for cosmetology apprenticeships.

By House Committee on Commerce & Labor (originally sponsored by Representatives McDonald and Conway).

House Committee on Commerce & Labor
Senate Committee on Financial Services, Insurance & Housing

Background: Individuals training for a license in cosmetology (to include barbering, esthetics, and manicuring) must attend a cosmetology school licensed by the Department of Licensing (Department). A student in a cosmetology school may not earn a wage while working the required hours for a school program.

The requirements for becoming licensed as a cosmetologist are:
- being over the age of 17;
- graduating from a license cosmetology school; and
- receiving a passing grade on the appropriate licensing exam approved by the Director.

The Department of Labor and Industries, appoints the Washington State Apprenticeship Council, which establish requirements for state-approved apprenticeship programs.

Summary: A pilot program is established for cosmetology apprenticeships. Twenty salons from around the state will participate in a pilot program to train individuals for the cosmetology exam through an apprenticeship program. An advisory committee, which will be coordinated by the Washington State Apprenticeship Council, will review the apprenticeship program and present a report to the Legislature by December 31, 2005. The apprenticeship pilot program expires July 1, 2006.

An apprentice in a state-approved cosmetology apprenticeship program is exempt from the licensing requirements. An apprentice may earn a wage while engaged in an apprenticeship program.

Individuals may become licensed in cosmetology, barbering, esthetics, or manicuring by successfully completing a state-approved apprenticeship program and passing the appropriate licensing exam.

The Director of the Department of Licensing may make rules regarding apprentices and apprenticeship programs.

Votes on Final Passage:

House	94	2	
Senate	49	0	(Senate amended)
House	96	1	(House concurred)

Effective: September 15, 2003

SHB 2215
C 368 L 03

Allowing car dealers to charge documentary service fees.

By House Committee on Transportation (originally sponsored by Representatives Murray and Simpson).

House Committee on Transportation
Senate Committee on Highways & Transportation

Background: Licensed vehicle dealers are required to collect a variety of government taxes and fees. Most vehicle dealers also license and title the vehicles they sell. Current law prohibits vehicle dealers from charging any kind of administrative or document preparation fee for performing tax collection, licensing and titling activities.

Summary: Vehicle dealers are authorized to charge a documentary service fee of up to $35 per vehicle sale or lease. In order to charge the document service fee, vehicle dealers must observe the following conditions:
- The service fee must be disclosed in writing before the execution of a purchase and sale or lease agreement.
- The service fee is not represented to the buyer as a fee or charge required by the state to be paid by either the dealer or the buyer.
- The service fee must be separately designated from the selling price of the vehicle and from any other taxes, fees or charges.
- Dealers must disclose in any advertisement that a document service fee of up to $35 may be added to the sale price of a vehicle.

Votes on Final Passage:

House	66	31	
Senate	42	7	(Senate amended)
House	65	32	(House concurred)

Effective: July 27, 2003

HB 2223
C 324 L 03

Allowing The Evergreen State College capital projects account to retain its interest income.

By Representatives Hunt, Alexander, Romero and Santos.

House Committee on Capital Budget
Senate Committee on Ways & Means

Background: A significant portion of Capital Budget appropriations goes to higher education institutions. There are six four-year institutions: The University of Washington; Washington State University; Central Washington University; Eastern Washington University; The Evergreen State College; and Western Washington University. The 34 two-year community and technical colleges are governed by the State Board for Community and Technical Colleges. Each of these has a building account that is appropriated by the Legislature for capital projects. The funding for these accounts generally comes from a building fee that students pay and trust revenue.

The interest earned on accounts in the State Treasury goes to the General Fund unless a statute states otherwise. All of the four-year public higher education institutions building accounts retain the interest on these accounts rather than having it go to the General Fund except for The Evergreen State College's account.

Summary: The interest on The Evergreen State College's building account remains in the account rather than going to the General Fund.

Votes on Final Passage:

House	89	0
Senate	48	1

Effective: The date on which Engrossed Substitute House Bill 2231 takes effect.

ESHB 2228
C 364 L 03

Extending commute trip reduction incentives.

By House Committee on Transportation (originally sponsored by Representatives Murray, Wallace, Cooper, Clibborn, Simpson, Rockefeller, Hudgins and Hankins).

House Committee on Transportation
Senate Committee on Highways & Transportation

Background: Major employers who employ 100 or more employees in the state's 10 largest counties are required to implement commute trip reduction programs to reduce the number of their employees traveling by single-occupant vehicles to their work sites.

Until December 31, 2000, the Legislature authorized business and occupation and public utility tax credits for employers throughout the state if they provided financial incentives to their employees for ride sharing in car pools, public transportation and non-motorized commuting (CTR modes). The purpose of this credit was to help reduce congestion, improve air quality and assist employers in efforts to provide incentives for employees to use the CTR modes. Employers were able to apply for a tax credit of up to $60 per person, per year or up to 50 percent of the financial incentive, whichever was less.

The State General Fund was originally reimbursed for the amount of credits by the Air Pollution Control Account when the annual cap on credits was $1.5 million. When the maximum annual credits were increased in 1999 to $2.25 million, the additional funds were from transportation-related accounts. The specific sources of reimbursement to the State General Fund were eliminated when the state motor vehicle tax was repealed.

Legislation was passed in 2002 to reinstitute the CTR tax credits; however, that legislation was conditioned on voter approval of Referendum 51, which failed.

Summary: A commute trip reduction tax credit is enacted from July 1, 2003, until June 30, 2013. Employers are allowed a business and occupation or public utility tax credit if they provide financial incentives to their employees for ride sharing in car pools, using public transportation, using car sharing, and non-motorized commuting (CTR incentives). Employers may apply for a tax credit of up to $60 per employee per fiscal year or up to 50 percent of the financial CTR incentives, whichever is less. Property managers and other employers may claim a credit for incentives granted employees at their work sites.

No tax credit can be greater than taxes due, nor greater than $200,000 each fiscal year. Tax credits may not be carried back but may be carried forward for up to three years.

Until June 30, 2013, the Department of Transportation must administer a program for incentive grants that will result in the most cost effective reductions of trips to work sites. Private employers, public agencies, nonprofit organizations, developers and property managers are eligible for annual grants of up to $100,000 for incentives provided to reduce commute trips for employees. Total grants are limited to $750,000 per fiscal year.

The State General Fund is reimbursed for the amount of tax credits from the Multimodal Transportation Account. The tax credits and grants expire June 30, 2013. The act is null and void if HB 2231 (transportation revenue bill) is not enacted. The tax credit provisions are in effect only as long as revenues are provided by ESHB 2231 to the Multimodal Transportation Account.

Votes on Final Passage:

House	91	5	
Senate	36	9	(Senate amended)
House			(House refused to concur)
Senate	38	11	(Senate amended)
House	89	9	(House concurred)

Effective: July 1, 2003

ESHB 2231
PARTIAL VETO
C 361 L 03

Authorizing transportation financing alternatives.

By House Committee on Transportation (originally sponsored by Representatives Murray, Wallace, Cooper, Clibborn, Rockefeller, Simpson, Hudgins and Hankins).

House Committee on Transportation

Background: Transportation funding in Washington is supported by a variety of taxes and fees. The majority of statewide transportation revenue comes from a 23 cent per gallon tax on motor vehicle and special fuel tax, vehicle licensing fees, and gross weight fees.

The 18th Amendment to the Washington State Constitution requires that the motor fuel tax, which is currently 23 cents per gallon, and the vehicle licensing fees be deposited into the Motor Vehicle Fund. Monies in that fund may be spent only for highway purposes. "Highway purposes" includes, highways, ferries, and park and ride lots, but excludes transit and rail.

Other transportation funding is not restricted by the 18th Amendment. These funds are often referred to as "multimodal" or flexible funding, these monies may be spent for any transportation purpose which includes transit and rail.

When motor vehicles are sold in Washington, sales or use tax of 6.5 percent is applied to the sale.

There are distributions of motor fuel and special fuel tax for offroad purposes which includes off road vehicles, snowmobiles, and marine. The rate of 18/23rds is used to calculate the refund distributions.

Washington has specialized license plates that have been approved by the Legislature. There has been a reduction in the number of new specialized plates in recent years.

Summary: The Transportation 2003 Account (Account) is created in the Motor Vehicle Fund. Money in the Account may only be spent on projects identified as Transportation 2003 projects and the debt service on the bonds sold to fund the projects. Once the projects have been completed, moneys in the Account may be spent only on the debt service to pay off the bonds, and if there are additional funds in the Account, they may be spent for maintenance on the Transportation 2003 projects.

Beginning July 1, 2003, the state gas tax and special fuel tax are increased by 5 cents per gallon. All of the revenue generated by the increase is deposited into the Transportation 2003 Account. The increase in the gas tax expires when the bonds sold to pay for the Transportation 2003 projects are retired.

Beginning August 1, 2003, the gross weight portion of the combined licensing fee paid by trucks, tractors, and buses is increased by 15 percent for vehicles over 10,000 pounds. The proceeds from the increased percentage must be deposited in the Transportation 2003 Account.

Beginning July 1, 2003, the sales and use tax applicable to motor vehicles is increased by three tenths of 1 percent. The revenues collected from the increase in the tax on motor vehicles must be deposited in the Multimodal Transportation Account. Farm tractors, farm vehicles, off road and nonhighway vehicles, and snowmobiles are not included.

The rate at which refund distributions are calculated for off-road vehicles, snowmobiles, and marine usage is increased by 1 cent in each of the next five bienniums.

By November 1, 2003, Department of Licensing must offer the option to retain license plate numbers at the time of replacement for $20. The Department of Licensing must offer special license plate design services for a fee of $1,500 and then $500 for each rendition thereafter. If House Bill 2065 becomes law by June 30, 2003, this provision regarding licenses plates becomes null and void.

Votes on Final Passage:

House	51	46	
Senate	29	20	(Senate amended)
House			(House refused to concur)
Senate	38	11	(Senate amended)
House	60	38	(House concurred)

Effective: July 1, 2003 (Sections 301-602)
July 27, 2003
August 1, 2003 (Sections 201-202)

Partial Veto Summary: The Governor vetoed the section of the bill that would have provided that the provisions relating to license plate technology would become null and void if House Bill 2065 becomes law by June 30, 2003.

VETO MESSAGE ON HB 2231-S

May 19, 2003

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 705, Engrossed Substitute House Bill No. 2231 entitled:

"AN ACT Relating to transportation and financing;"

Engrossed Substitute House Bill No. 2231 is the transportation revenue bill that will support the new transportation projects and programs appropriated in Engrossed Substitute House Bill No. 1163, the 2003-05 transportation budget.

In approving and signing this bill, with the exception of section 705 as noted below, I am acting on the understanding that the Washington Constitution exempts this bill from a referendum petition, and that the legislature in enacting the bill did not intend that it be subject to referendum. The legislature could not have considered the bill subject to referendum because it declared most sections of the act effective on July 1, 2003. Any other view would be inconsistent with the Washington Constitution, which provides that no bill subject to referendum shall take effect until ninety days after adjournment of the session during which it was enacted.

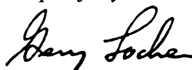
In addition, the bill contains a legislative finding that the state's transportation system is in critical need of repair, restoration, and enhancement, and that the revenues generated by this act are necessary for state transportation projects and services. Although an initiative can propose new legislation on almost any subject, under the Washington Constitution a referendum petition cannot suspend the operation of a law necessary for the immediate preservation of the public peace, health or safety, or the support of state government and its existing public institutions.

Part V of this bill provides that for a fee of twenty dollars, vehicle owners may retain their current license plate number upon replacement. Part V also sets fees for the Department of Licensing design of special license plates. The fees generated by Part V are to be deposited into the multimodal transportation account. Section 705 of this bill would have provided that these provisions are null and void if House Bill No. 2065, an act relating to license plate technology, becomes law by June 30, 2003. Given that I prefer the distribution of the fee revenues in Part V of this bill to that prescribed by House Bill No. 2065, I have vetoed section 705.

For this reason, I have vetoed section 705 of Engrossed Substitute House Bill No. 2231.

With the exception of section 705, Engrossed Substitute House Bill No. 2231 is approved.

Respectfully submitted,



Gary Locke
Governor

HB 2242
C 9 L 03 E1

Concerning the definition of general state revenues.

By Representative Dunshee.

House Committee on Capital Budget

Background: Washington's indebtedness is limited by a statutory and a constitutional debt limit. The State Treasurer cannot issue any bonds that would cause the debt service on the new, plus existing, debt to exceed 7 percent of general state revenues averaged over three years; the constitutional limit is 9 percent.

Bond capacity for a given biennium is the amount of projects that may be authorized by the Legislature for which the State Treasurer may issue bonds to finance without exceeding the debt limit in the future, given forecasted variables and a stable Capital Budget level in future biennia. Interest rates, revenue, and other factors affect bond capacity.

For purposes of the debt limit, the term "general state revenues" is defined in the State Constitution and by statute. General state revenues traditionally have been defined to be more limited than revenue going to the state General Fund; revenue identified in statute as being for specific purposes or going into dedicated accounts typically has not been considered general state revenues. The same definition is used for both the constitutional and statutory debt limits except that the statutory definition includes the portion of the Real Estate Excise Tax (REET) going to the General Fund for support of the common schools and the lottery revenue going to the Education Construction Account, while the constitutional definition likely does not include these. The lottery revenue was added to general state revenues by Initiative 728, and the REET revenue was added to the statutory definition of general state revenues in the 2002 bond bill.

Most of the state portion of the property tax goes to the General Fund for support of the common schools; a portion goes to the Student Achievement Fund and is distributed to local school districts.

Summary: The statutory definition of general state revenues includes the state portion of the property tax, both the portion going to the General Fund and the portion going to the Student Achievement Fund.

Votes on Final Passage:

House 82 16
<u>First Special Session</u>
House 74 18
Senate 44 3

Effective: September 9, 2003

HB 2252
C 10 L 03 E1

Revising eligibility requirements for general assistance.

By Representatives Sommers, Fromhold and Moeller.

Background: General Assistance - Unemployable (GA-U) benefits are provided to people who are temporarily disabled and as a result cannot work. To be eligible for these benefits, a client must undergo an incapacity review that proves the client temporarily disabled by a medical or mental condition. After a client is determined eligible for GA-U benefits, the client is required to have periodic incapacity reviews to ensure continued eligibility for the program.

The Department of Social and Health Services (DSHS) is prohibited from terminating a GA-U recipient's benefits unless there is a clear showing of material improvement in the recipient's medical or mental condition at the incapacity review.

Summary: The DSHS is required to discontinue benefits to GA-U recipients unless the recipient demonstrates

no material improvement in his or her medical or mental condition at the incapacity review.

Votes on Final Passage:

First Special Session

House	93	1
Senate	42	3

Effective: September 9, 2003

EHB 2254
C 11 L 03 E1

Funding the state retirement systems.

By Representatives Sommers, Fromhold and Moeller.

Background: The choice of an actuarial funding method determines the way pension contributions will be allocated across members' working careers. The ultimate cost of a pension is determined by the actual benefits paid out less the returns on investment of fund assets. All standard actuarial funding methods are designed to completely fund a members' retirement benefits before retirement.

The current actuarial funding method used for Plans 2 and 3 of the Public Employees' Retirement System (PERS), the Teachers' Retirement System (TRS), and the School Employees' Retirement System (SERS) is the aggregate funding method. Under the aggregate method, normal or annual costs are equal to the difference between the present value of all future benefits to be paid out less current assets. This difference (the cost) is spread as a level percentage of members' future pay. The aggregate method therefore does not allow an unfunded liability to exist.

Pension fund assets are valued on an actuarial basis, rather than a market value basis, to reduce the instability in contribution rates year-to-year. The current actuarial method for determining the value of assets is to recognize changes to asset values that vary from the long-term investment rate of return assumption over a four year period. The long-term investment rate of return is 8 percent per year.

In addition to the calculation of costs using the aggregate method, additional employer contributions are calculated to amortize the unfunded liabilities in PERS and TRS Plans 1 by June 30, 2024. These additional employer contributions are made for employees in all PERS, SERS, and TRS plans, and the contributions directed towards the appropriate Plan 1 unfunded liability. No employee contributions are used to pay the costs of the unfunded liabilities in the Plans 1.

As of the 2001 Actuarial Valuation, PERS Plan 1 had $860 million of unfunded liability in comparison to about $11.0 billion in assets, and TRS Plan 1 had $400 million of unfunded liability in comparison to $9.3 billion in assets. Among the major sources of the unfunded liabilities are the granting of unfunded benefit increases granted to Plan 1 retirees in the 1970s and 1980s, benefit formula increases granted in 1972 and 1973, and prior years of underfunding.

Summary: A new method of determining the actuarial value of assets is adopted. The period used to recognize the variation of a year's investment return from the long-term rate of investment return will vary based on the magnitude of deviation up to a maximum period for recognition of eight years. During the 2003-2005 biennium, no contributions will be made towards the unfunded liabilities in PERS and TRS Plans 1.

The requirement that the Department of Retirement Systems notify employers 30 days in advance of a change in pension contribution rates is waived for purposes of the contribution rate changes provided in this act.

Votes on Final Passage:

First Special Session

House	73	19
Senate	42	4

Effective: July 1, 2003

ESHB 2257
C 28 L 03 E1

Concerning the treatment of income and resources for institutionalized persons receiving medical assistance.

By House Committee on Appropriations (originally sponsored by Representatives Sommers, Fromhold and Moeller).

House Committee on Appropriations

Background: The federal Social Security Act requires states to disregard a portion of the income and assets of the spouses of nursing home residents receiving Medicaid services and of nursing home-eligible persons receiving Medicaid services through a Community Options Program Entry System (COPES) waiver.

When one member of a couple receives medical assistance, the total value of all resources belonging to either spouse is computed to determine whether the spouse receiving long-term care services in a nursing facility or in the community meets the state resource standard for Medicaid. Half of the total is attributed to each spouse. The couple's home, household goods, automobile, and burial funds are disregarded when estimating the couple's combined resources. In accordance with federal requirements, the spouse not receiving long-term care services must be allowed to retain at least $18,132 and not more than $90,660 in liquid assets. States are authorized to set the level of protection higher than the federal minimum, but not more than the federal maximum. Washington sets the level of protection at the federal maximum of $90,660 in liquid assets.

Summary: The Department of Social and Health Services will disregard up to a maximum of $40,000 in resources for the community spouse of persons institutionalized on or after August 1, 2003. Couples will need to "spend down" savings in excess of $40,000 prior to receiving Medicaid services. Persons who were receiving Medicaid-funded services under the higher resource standard in effect before August 1, 2003, will continue to qualify under that higher standard.

For the fiscal biennium beginning July 1, 2005, and each fiscal biennium thereafter, the maximum resource allowance amount for the community spouse will be adjusted for economic trends and conditions by increasing the amount allowable by the consumer price index as published by the federal Bureau of Labor Statistics. However, in no case will the amount allowable exceed the maximum resource allowance permissible under the federal Social Security Act.

Votes on Final Passage:

House 87 5

First Special Session

House 85 7

Senate 30 16

Effective: July 1, 2003

HB 2266

C 12 L 03 E1

Revising the state leave sharing program.

By Representatives Hunt and Romero.

Background: In 1989 the Legislature created a leave sharing program. The leave sharing program permits state agency, school district, and education school district employees to donate some of their annual or sick leave to a fellow employee who faces losing his or her job or going on leave without pay due to an extraordinary illness or injury that has caused that employee to deplete his or her sick and annual leave reserves. The illness or injury may be to an employee, a relative, or a member of the employee's household.

Employees may transfer a specified amount of sick leave to an employee requesting shared leave as long as they maintain a minimum of 480 hours or 60 days of sick leave after the transfer. An employee may transfer no more than six days of sick leave during any 12 month period. Employees may also donate any amount of annual leave as long as they maintain a balance of 10 days.

The agency head determines the amount of leave, if any, an employee may receive under this section; however, an employee may not receive a total of more than 261 days of leave.

State employees are entitled to 15 days of military leave with pay each year in addition to any other vacation and sick leave they earn. Employees who take more than 15 days of military leave in a year may do so without pay and are granted substantial rights to return to their former positions upon return.

Summary: An agency head may permit an employee to receive donated annual or sick leave if the employee has been called to service in the uniformed services and his or her own annual leave and paid military leave are depleted. This service includes voluntary or involuntary service in the armed forces, the National Guard, the commissioned public heath services, the Coast Guard, or any other category of persons designated by the President of the United States in time of war or national emergency.

The amount of sick leave that must be retained by employees donating leave is lowered. An employee donating sick leave must maintain a minimum of 176 hours or 22 days of sick leave after the transfer. The restriction on employees transferring more than six days of sick leave during any 12 month period is removed.

Votes on Final Passage:

First Special Session

House 92 0

Senate 44 0 (Senate amended)

House 94 0 (House concurred)

Effective: June 20, 2003

EHB 2269

C 13 L 03 E1

Relating to increasing revenue.

By Representative Gombosky.

Background: Tax Reporting Due Dates. The Department of Revenue (DOR) collects the state's major excise taxes, such as the retail sales tax and the business and occupation (B&O) tax. The taxes collected by the DOR are reported on the combined excise tax return. Taxpayers reporting on this form whose estimated tax liability is greater than $4,800 a year are required to pay taxes by the 25th of each month for activity in the previous month. Taxpayers whose estimated tax liability is between $4,800 and $1,050 a year are required to pay quarterly. Taxpayers whose estimated tax liability is less than $1,050 a year are required to pay annually. Quarterly and annual taxpayers are required to pay taxes by the end of the month following the end of the reporting period.

Penalties. Penalties are imposed if a tax return is not filed or if the return is filed late.

- If the return is filed on time, without any tax, or the return is filed late, a penalty is imposed. If the return is filed on time, with only part of the tax, no penalty is imposed unless the underpayment appears to be intentional. The penalty is 5 percent if paid by the last day of the month after the due date, 10 percent if

paid by the last day of the second month after the due date, and 20 percent after that.
- If taxes assessed by the DOR (through audit, from finding calculation errors on a return, or from returns with no payment) are not paid by the due date specified in the notice, a penalty of 10 percent applies to the assessed taxes.
- If a warrant is issued for the payment of taxes, a penalty of 5 percent applies.

In addition to these penalties, a negligence penalty of 10 percent may be imposed for failure to follow specific written instructions from the DOR on how to report tax liabilities. An additional penalty of 50 percent applies to under-payments resulting from an intent to evade taxes. The DOR may not impose both this evasion penalty and the penalty for failure to follow specific instructions.

An unregistered taxpayer is one who should have been registered and reporting taxes but was not. Unregistered taxpayers who come forward on their own volition are assessed taxes and interest for the past four years; unregistered taxpayers discovered by the DOR are assessed taxes, interest, and late penalties for seven years.

Penalties are waived if the DOR finds that deficient or late payment was the result of circumstances beyond the control of the taxpayer. The following are examples of circumstances where a penalty would be waived:
- The death or serious illness of the taxpayer, someone in the taxpayer's immediate family, or the taxpayer's bookkeeper or accountant.
- The destruction by fire or other casualty of the taxpayer's place of business or business records.
- An act of fraud, embezzlement, theft, or conversion on the part of the taxpayer's employee or bookkeeper, that the taxpayer could not immediately detect or prevent.
- The taxpayer was acting under information given to the taxpayer by a DOR employee in writing.

The late payment penalties are waived if the taxpayer requests the waiver and the taxpayer has timely filed and remitted payment on all tax returns due for that tax program for a period of 24 months immediately preceding the period covered by the return for which the waiver is being requested.

Vendor Verification. Any business that makes sales at retail is required to register with the DOR and collect retail sales tax. This includes persons who sell from booths or other temporary locations at events such as auto shows, garden shows, and flea markets. However, there is a low rate of compliance with registration and sales tax collection at these events.

Successorship. A person buying a business or a major part of the physical assets of a business is known as a successor. A successor becomes liable for any unpaid excise tax of the business. Successors are required to withhold money from the purchase price of the business sufficient to pay the taxes. However, the successor's liability for unpaid taxes could exceed the purchase price of the business or the assets acquired. If the successor gives written notice of the purchase to the DOR, and the DOR does not issue a tax assessment within six months, the successor is no longer liable for the tax.

Only physical assets are considered when determining the tax liability of a successor. Intangible assets are not considered. Thus, a person might buy the business name, customer lists, contract rights, licenses, and other intangible assets that constitute the major value of a business and not be considered a successor, unless the person also bought a major part of the physical assets of the business.

In some circumstances, being treated as a successor has tax advantages. A successor is liable for the unpaid taxes of a purchased business, but not penalties and interest on the unpaid taxes. A question arose as to whether the surviving corporation after a statutory merger was a successor. A statutory merger is one where one of the merging companies continues to exist as a legal entity, rather than being replaced by a new entity. The Board of Tax Appeals ruled that a surviving corporation after a statutory merger is not a successor. Under the Board of Tax Appeals ruling, the surviving corporation is liable for the taxes, penalties, and interest of the merged corporation. Before this ruling, the DOR treated the surviving corporation as a successor that was liable for tax, but not liable for penalties and interest.

Unclaimed Property. The Uniform Unclaimed Property Act governs the disposition of intangible property that is unclaimed by its owner. A business that holds unclaimed intangible property must transfer it to the DOR after a holding period set by statute. The holding period varies by type of property, but for most unclaimed property the holding period is five years. After the holding period has passed, the business in possession of the property transfers the property to the DOR.

Abandoned property is turned over from many sources including banks, credit unions, corporations, utilities, insurance companies, governmental entities and retailers throughout the United States. The types of abandoned property that are subject to the DOR program include bank accounts; uncashed checks such as payroll, insurance payments or travelers checks; utility and/or phone company deposits; safe deposit box contents; insurance proceeds; and stocks, bonds, and mutual funds.

Under the program, the DOR's duty is to find the rightful owner of the property, if possible. The DOR sends notices to the last known addresses of owners, places advertisements with names of owners in newspapers, sends press releases to television and radio stations, and undertakes other efforts to find owners. The DOR is not required to publish or mail notices when the property value is less than $75. With some exceptions, the DOR

will sell property that is still unclaimed five years after it is received. The sale proceeds are deposited in the state General Fund. However, the owner of unclaimed property may still come forward and obtain reimbursement from the state General Fund at any time.

Summary: Tax Reporting Due Dates. Taxpayers with total tax liability greater than $4,800 in a calendar year are required to report and pay taxes by the 20th of the month rather than the 25th.

Penalties. Penalties for failure to pay excise taxes on time are increased. The penalty for being more than one month late on the payment of tax on a tax return or filing a late tax return is increased from 10 percent to 15 percent. The penalty for being more than two months late is increased from 20 to 25 percent.

The 10 percent penalty on failing to pay assessments by the due date is replaced. A new penalty of 5 percent applies to all tax billings. If the tax is not paid by the due date, the penalty increases to 15 percent. If the penalty is not paid within a month of the due date, the penalty increases to 25 percent.

The 5 percent penalty imposed if a warrant is issued for the payment of taxes is increased to 10 percent. A new penalty is imposed on unregistered taxpayers discovered by the DOR. The penalty is equal to 5 percent of the tax found to be due. Unregistered taxpayers who come forward on their own are not subject to this penalty.

These penalties apply beginning July 1, 2003, except the penalty on assessments applies to assessments originally made after July 1, 2003.

Vendor Verification. A promoter of a special event such as an auto show, garden show, or flea market must verify that all vendors at the event are registered with the DOR. Special events that charge vendors less than $200 to participate, charitable events, and on-going athletic contests are exempted from the verification requirement. A promoter who only provides a venue for an event, without organizing, operating, or sponsoring the event, is exempt from the verification requirement. A promoter who is not exempt must keep records about the date and location of the event and the vendors at the event, and provide this information to the DOR on request. A promoter who fails to meet these requirements is subject to penalties of $100 for each failure to verify that a vendor has obtained a certificate of registration from the DOR, $100 for each vendor from whom the promoter fails to collect required information; and $250 if the information is not received by the DOR within 20 days of the request. Total penalties cannot exceed $2,500 per event, for first-time violations.

Successorship. A successor for excise tax purposes is a person who acquires 50 percent of the fair market value of either the tangible assets or intangible assets of a business.

The surviving corporation of a statutory merger is defined as a successor. Thus, a surviving corporation of a statutory merger is liable for the unpaid taxes of a purchased business, but not penalties and interest on the unpaid taxes.

If the fair market value of the assets acquired by a successor is less than $50,000, the successor's liability for unpaid tax is limited to the fair market value of the assets acquired from the taxpayer. The burden of establishing the fair market value of the assets acquired is on the successor.

Unclaimed Property. The holding period for abandoned property under the Uniform Unclaimed Property Act is shortened from five to three years for the following types of property: bank accounts; certain uncashed checks such as payroll and cashier's checks; gift certificates and credit memos; life insurance; intangible property held by a fiduciary; and stocks, bonds, and mutual funds.

Votes on Final Passage:

First Special Session

House	67	30
Senate	34	11

Effective: July 1, 2003 (Sections 11-16)
August 1, 2003 (Sections 8-10)
January 1, 2004 (Sections 1-7)

HB 2285

C 14 L 03 E1

Authorizing DSHS to establish cost-sharing requirements for recipients of medical programs.

By Representatives Sommers and Sehlin.

Background: The Medical Assistance Administration, within the Department of Social and Health Services (Department), administers various health care programs for qualified, low-income people, including the Medicaid Program, the Children's Health Program, the Limited Casualty Program, and other state-funded medical care services. The Medical Assistance Administration is authorized to establish copayment, deductible, or coinsurance requirements for recipients of these medical programs.

Summary: The Department is authorized to establish other cost-sharing requirements, which could include premiums, for recipients of medical assistance programs.

Votes on Final Passage:

First Special Session

House	73	24
Senate	31	14

Effective: July 1, 2003

HB 2294

C 1 L 03 E2

Providing tax incentives for the retention and expansion of the aerospace industry in Washington state.

By Representatives Pettigrew, Priest, Morris and Hinkle; by request of Governor Locke.

Background: Washington's major business tax is the business and occupation (B&O) tax. The B&O tax is imposed on the gross receipts of business activities conducted within the state, without any deduction for the costs of doing business. 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. Rate categories for the B&O tax are as follows:

0.138% Processing meat (at wholesale); processing soybeans, canola, and dry peas; manufacturing wheat into flour; manufacturing raw seafood; warehousing/reselling of prescription drugs; and manufacturing fresh fruit, vegetable, and dairy products.

0.275% Travel agents, stevedoring, freight brokers, and international investment management services.

0.471% Retailing, environmental cleanup, and radioactive waste cleanup for the U.S.

0.484% Manufacturing, wholesaling, extracting, extracting and processing for hire, commissions of insurance agents/brokers, printing and publishing, child care, income derived from royalties, warehousing, radio and TV broadcasting, public road construction, government contracting, and retailing of interstate transportation equipment.

1.5% Professional and personal services, public/nonprofit hospitals, and activities not classified elsewhere.

3.3% Disposal of low-level radioactive waste.

Sales tax is imposed on retail sales of most items of tangible personal property and some services, including construction and repair services. Sales and use taxes are imposed by the state, counties, and cities. Sales and use tax rates vary between 7 and 8.9 percent, depending on location. There are a number of sales and use tax exemptions, including machinery and equipment directly used in manufacturing.

Property taxes are imposed by state and local governments. All real and personal property in this state is subject to the property tax based on its value, unless a specific exemption is provided by law. There are exemptions for certain properties, including property owned by federal, state, and local governments, churches, farm machinery, and business inventory.

Property owned by federal, state, or local governments is exempt from the property tax. However, private lessees of government property are subject to the leasehold excise tax. The purpose of the leasehold excise tax is to impose a tax burden on persons using publicly-owned, tax-exempt property similar to the property tax that they would pay if they owned the property. The tax is collected by public entities that lease property to private parties.

Summary: The B&O tax rate for manufacturers of commercial airplanes or commercial airplane components is reduced from 0.484 percent to 0.4235 percent effective October 1, 2005, and to 0.2904 percent effective July 1, 2007 (or upon commencement of final assembly of a super-efficient airplane, whichever is later).

A manufacturer of commercial airplanes or commercial airplane components may claim a credit against the B&O tax for preproduction development expenditures. The credit is equal to 1.5 percent multiplied by the amount of eligible expenditures. Preproduction development includes research, design, and engineering activities performed in relation to the development of a product, product line, model, or model derivative, including prototype development, testing, and certification. Any credits earned before July 1, 2005, may be carried forward and used after July 1, 2005, but may not be used before then.

A manufacturer of commercial airplanes may claim a credit against the B&O tax for investment related to computer software and hardware acquired between July 1, 1995, and the effective date of this act, and used primarily for the digital design and development of commercial airplanes. The credit is equal to the purchase price of these items, multiplied by 8.44 percent. This credit is limited to $10 million per calendar year and $20 million total for each eligible person.

Sales and use tax exemptions are provided for computer hardware, computer peripherals, and software used primarily in the development, design, and engineering of commercial airplanes or commercial airplane components, and labor and services for installing these items.

Sales and use tax exemptions are provided for labor and services rendered in construction of new buildings by a manufacturer of super-efficient airplanes or by a port district for lease to a manufacturer of super-efficient airplanes. Sales and use tax exemptions are also provided for sales of tangible personal property that will be incorporated as an ingredient or component of the buildings during the course of the construction, and for labor and services rendered in respect to installing building fixtures during the course of construction.

These facilities are exempt from leasehold excise tax if leased by a manufacturer engaged in the manufacturing of super-efficient airplanes. The leasehold is not exempt if the person is taking a B&O tax credit for property taxes.

All buildings, machinery, equipment, and other personal property of a lessee of a port district used exclusively in manufacturing super-efficient airplanes are exempt from property taxation, effective January 1, 2005. The property is not exempt if the person is taking

a B&O tax credit for property taxes.

A manufacturer of commercial airplanes or commercial airplane components may claim a credit against the B&O tax for:

(1) property taxes paid on new buildings built after the effective date of this act, and land upon which the buildings are located;
(2) property taxes attributable to an increase in assessed value due to the renovation or expansion, after the effective date of this act, of a building used in manufacturing commercial airplanes or components of such airplanes; and
(3) property taxes paid on machinery and equipment used in manufacturing commercial airplanes or components of such airplanes and acquired after the effective date of this act.

Businesses that exercise any of the incentives in this act must file an annual report with the Department of Revenue by March 31 following the year they use the B&O reduced rate or credit, or full taxes will be immediately due and payable. The report must include employment, wage, and employer-provided health and retirement benefit information for full-time, part-time, and temporary positions. The reports will not be confidential and will be made public upon request. The first report by a business shall include the same types of employment, wage, and benefit information for the 12 months prior to the business's first use of the incentives.

The Senate and House fiscal committee legislative staff shall report by November 1, 2010, and again by November 1, 2023, on the effectiveness of the incentives in keeping Washington competitive and on criteria to determine whether to extend the incentives or not. Information used to measure effectiveness shall include: job retention, net jobs created for Washington residents, company growth, economic diversity, and cluster dynamics.

The tax rates provided by this act expire the earlier of July 1, 2024, or December 31, 2007, if the assembly of a super-efficient airplane does not begin by December 31, 2007. The other tax incentives in this act expire July 1, 2024.

If the Governor and a manufacturer of commercial airplanes do not sign a memorandum of agreement to site a significant commercial airplane final assembly facility in Washington by July 1, 2005, the act is null and void.

Votes on Final Passage:

<u>First Special Session</u>

House	79	13

<u>Second Special Session</u>

House	79	10
Senate	42	1

Effective: The first day of the month in which the Governor and a manufacturer of commercial airplanes sign a memorandum of agreement to site a significant commercial airplane final assembly facility in Washington.

SHJM 4004

Requesting Congress to restore the federal income tax deduction for state and local sales taxes.

By House Committee on Finance (originally sponsored by Representatives Nixon, Campbell, Bush, Kessler, Talcott and Simpson).

House Committee on Finance
Senate Committee on Ways & Means

Background: In 1986 federal tax changes removed the itemized deduction for state and local sales taxes on federal income tax returns. State and local income taxes and property taxes continue to be deductible as itemized deductions.

The Washington Tax Structure Committee estimates that Washington households pay an additional $500 million in federal income taxes because the sales tax is no longer deductible.

A bill has been introduced in the 108th Congress to restore the itemized deduction for sales taxes. The bill would allow a deduction for sales taxes for residents of states that do not impose an income tax.

Summary: Congress is requested to restore the itemized deduction for sales taxes.

Votes on Final Passage:

House	92	0
Senate	48	0

SHJM 4005

Supporting the Vancouver 2010 Olympic bid.

By House Committee on Trade & Economic Development (originally sponsored by Representatives Morris, Anderson, Linville, Veloria, Skinner, Quall, Hunt, Cox, Miloscia, Ericksen, McDonald, Pearson, Sullivan and Hankins).

House Committee on Trade & Economic Development
Senate Committee on Economic Development

Background: The modern Olympic Movement was born in 1892, when Pierre de Courbertin announced the re-establishment of the Olympic Games. The International Olympic Committee (IOC) was created on June 23, 1894, and the first Olympic Games of the modern era opened in Athens on April 6, 1896. The goal of the Olympic Movement is to contribute to building a peaceful and better world by educating youth through sport practiced without discrimination of any kind, in a spirit of friendship, solidarity and fair play.

In order to host the Olympic Games, cities must participate in a two phase host city election procedure. Cities must pass an initial selection phase during which basic technical requirements are examined by a team of experts and then put forward to the IOC Executive Board. Once approved by the Executive Board, the cities become official Candidate Cities and are authorized to go forward into the full bid process. An assessment is made of each Candidate City's ability to stage high-level, international, multi-sport events and its ability to organize the Olympic Winter games in 2010, against a set of 11 technical assessment criteria: government support and public opinion; general infrastructure; sports venues; Olympic village; environmental conditions and impact; accommodations; transport; security; experience from past sporting events; finance and general concept. Currently, there are three Candidate Cities to host the XXI Olympic Winter Games in 2010: Vancouver, Canada; Salzburg, Austria; and Pyeongchang, Korea.

During the 2002 Olympic Winter Games in Utah, there were an estimated 220,000 total visitors. The total economic output from the Olympics was $4.8 billion, including 35,000 job years, $1.5 billion in investment, $435 million in infrastructure investment, $123 million in visitor spending and a net revenue to local and state government of $76 million. The Salt Lake City Olympic Committee budget was $1.9 billion and it finished with a $100 million profit. The estimated value of print media exposure during the games with a tourism theme was $22.9 million.

Summary: The joint memorial communicates to the International Olympic Organizing Committee, the United States Olympic Committee, the Vancouver 2010 Bid Corporation, the Prime Minister of Canada, and the Premier of British Columbia, Washington's support of the bid of Vancouver, British Columbia, to host the 2010 Winter Olympic and Paralympic Games.

Votes on Final Passage:

House	97	0
Senate	48	0

HJM 4012

Encouraging counties, local governments, and the department of social and health services to help facilitate the creation and operation of Children's Advocacy Centers.

By Representatives Miloscia, Delvin, Dickerson, Boldt, Chase, Moeller, Edwards, Haigh, Pettigrew, Benson, Veloria, Kagi and Schual-Berke.

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

Background: In 1999 legislation was enacted relating to investigations of child sexual abuse in the state. The legislation requires the design and implementation of statewide training containing consistent elements for persons engaged in the interviewing of children for child sexual abuse cases. Ongoing specialized training must be provided for persons responsible for investigating child sexual abuse.

Each agency involved in investigating child sexual abuse must document its role in handling cases and how it will coordinate with other local agencies or systems, and must adopt a local protocol based on state guidelines. Each county must develop a written protocol for handling criminal child sexual abuse investigations. The protocol must address the coordination of child sexual abuse investigations among the prosecutor's office, law enforcement, the Department of Social and Health Services (DSHS), local advocacy groups, and any other local agency involved in the criminal investigation of child sexual abuse.

As required by the legislation, the Washington State Institute for Public Policy (WSIPP) convened a work group to develop state guidelines for the development of child sexual abuse investigations protocols.

In addition, the DSHS was required to establish three pilot projects involving child sexual abuse investigations. The projects were to follow written protocols and use different methods and techniques to conduct and preserve interviews with alleged child victims of sexual abuse. The DSHS was required to provide an interim report to the Legislature on the pilot projects, and the WSIPP was required to evaluate the pilot projects. Of the three pilot projects, one was conducted through a Children's Advocacy Center.

Children's Advocacy Centers offer a comprehensive approach to services for abused children and their families. These programs are designed by professionals and volunteers responding to the needs of their communities. Children's Advocacy Centers stress coordination of investigation and intervention services by bringing together professionals and agencies as a multidisciplinary team to create a child-focused approach to child abuse cases, with the goal of ensuring that children are not revictimized by the system designed to protect them.

The National Children's Alliance is a not-for-profit organization, founded in 1987, whose mission is to provide training, technical assistance, and networking opportunities to communities seeking to plan, establish, and improve Children's Advocacy Centers.

Summary: The Senate and the House of Representatives find that the effect of child sexual abuse on victims is devastating and the subsequent investigation, prosecution, and advocacy involving child victims should be implemented in a manner so as to not further traumatize victims.

The Senate and the House of Representatives encourage counties, local governments, and the DSHS to help facilitate the creation and operation of Children's Advocacy Centers, which are members of the National Children's Alliance, and to help ensure the participation of their relevant employees in these Children's Advocacy Centers, to improve outcomes for child victims of sexual abuse.

Votes on Final Passage:

House	92	0	
Senate	48	0	(Senate amended)
House	97	0	(House concurred)

HJM 4014

Naming the "Maryann Mitchell Memorial Interchange."

By Representatives Woods, Miloscia, Priest, Hankins, Shabro, Rockefeller, Sehlin, Lovick, Bailey, Holmquist, Ericksen, Tom, Schindler, Clements, Morris, Anderson, Sullivan, Dickerson, Wood, Murray, Ruderman, Kirby, Kenney, Haigh, Kagi, Schual-Berke, Linville, Moeller, Chase, Romero, Simpson, Quall, Conway, Santos, Upthegrove, Darneille, Veloria, Pearson, Alexander, Skinner and Talcott.

Senate Committee on Highways & Transportation

Background: In the past the Legislature has designated certain portions of the state highway system with memorial names. More recently, the Transportation Commission (Commission) established a policy and developed a process for designating memorials on the state highway system when requested to do so by the Legislature. Upon legislative request, the Commission will adopt a resolution directing the Department of Transportation to carry out the designation of the facility with the memorial name.

Summary: The Commission is requested to designate the 320th Street crossing of Interstate 5 in the City of Federal Way the "Maryann Mitchell Memorial Interchange."

Votes on Final Passage:

House	98	0
Senate	49	0

HJM 4021

Requesting that the Bonneville Power Administration not raise rates.

By Representatives Wallace, Crouse, Morris, Condotta, Lovick, Kessler, Darneille, Berkey, Hatfield, Hudgins, Moeller and Blake.

House Committee on Technology, Telecommunications & Energy

Senate Committee on Natural Resources, Energy & Water

Background: The economy of Washington has been built on affordable and reliable electric power. Electricity rates in the last few years for some utility customers have increased dramatically. A recent survey of electricity rates done by a northwest company found that electricity rates in the Northwest for certain industrial customers were higher than in other parts of the country.

During regional discussions on the financial circumstances of the Bonneville Power Administration (BPA), businesses indicated that their operations were at risk, unemployment is increasing, and customers are not able to pay electric bills.

The BPA supplies about half of the electricity demand in the region. In 2001 the BPA increased wholesale rates of electric power by 46 percent. The BPA is beginning the process to increase rates again by as much as 15 percent by October 1, 2003.

Congress recently authorized an increase in the borrowing limit for the BPA by $700 million. Some argue that the BPA should borrow money to relieve the pressure to increase rates now. The BPA is looking at cost reductions, deferrals, and other actions that can address its worsening financial condition for the remainder of the 2003 to 2006 period. The conditions it seeks to address are low reserves, low projected revenues, and limited borrowing authority. The BPA has financial tools available to increase liquidity under critical circumstances.

Concerns over a second drought year are increasing. The January to July runoff forecast is 70 percent of normal and the snow pack used to feed the Columbia River system is extremely low. This, along with a struggling economy, adds to the pressure on electricity prices.

Summary: The Legislature makes its request to the President of the United States, the United States Congress, the Administrator of the Bonneville Power Administration, the Secretary for the Department of Homeland Security, and the Secretary of Energy that the Bonneville Power Administration not adopt a rate increase at this time unless absolutely necessary to preserve its bond ratings, but use other tools at its disposal to manage costs until economic recovery is in sight.

Votes on Final Passage:

House	95	0	
Senate	46	0	(Senate amended)
House	98	0	(House concurred)

HJR 4206

Amending the Constitution to provide for vacancies that occur after the general election.

By Representatives Hudgins, Nixon, Flannigan, Pettigrew, Clibborn, Kenney, Haigh, Hinkle, Bailey, Morrell and Upthegrove.

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

Background: If a legislative or partisan county office is vacated, the county legislative body must appoint someone to serve until the successor is elected at the next general election. Once the election results are certified, the successor must take office immediately.

Amendments to the State Constitution require a two-thirds majority approval in the Legislature and simple majority approval by the people at the following general election.

Summary: In an election year, if a vacancy occurs in a legislative or partisan county office after the general election but before the start of the next term, the successor may take office immediately after the election results are certified if he or she is of the same political party as the incumbent. If the successor is of a different political party than the incumbent, a vacancy must be filled through the appointment process.

The proposed constitutional amendment must be approved by voters in the November general election.

Votes on Final Passage:

House	93	0	
Senate	46	0	(Senate amended)
House	97	0	(House concurred)

SB 5001
C 3 L 03

Revising the felony-murder statute.

By Senators Zarelli, McCaslin, Kastama, T. Sheldon, Carlson, Esser and Sheahan.

Senate Committee on Judiciary

Background: A person is guilty of second degree felony murder when he commits or attempts to commit any felony, other than those enumerated in the first degree felony murder statute, and in the course of and in furtherance of the crime, he causes the death of a person other than an accomplice. The long-standing rule in Washington for felony murder in all instances has been that the intent to commit the felony is substituted for the premeditation of or intent to commit murder that would otherwise be necessary to establish murder.

For the past 27 years, Washington appellate courts have found assault as a predicate offense for second degree felony murder to be constitutional and appropriate. The Washington State Supreme Court recently ruled for the first time, in *State v. Andress*, Docket 71170-4 (2002), that "assault cannot serve as the predicate felony for second degree felony murder." The court found that an assault is never independent of a resulting homicide and, therefore, the "in furtherance of" language in the statute is meaningless in relation to assault, a strong indication that "the Legislature did not intend that assault should serve as a predicate felony for second degree murder." The court also found that, in some instances, using assault as a predicate offense would be unduly harsh. The court has agreed to reconsider its decision (pending).

Summary: The statute is clarified to reinforce the Legislature's original and continued intent that assault is a predicate offense for felony murder in the second degree. The Legislature urges the Supreme Court to apply this interpretation retroactively to July 1, 1976.

Votes on Final Passage:

Senate	49	0
House	95	1

Effective: February 12, 2003

SSB 5006
C 182 L 03

Allowing nonconsumptive wildlife activities on public lands.

By Senate Committee on Natural Resources, Energy & Water (originally sponsored by Senators Jacobsen and Haugen).

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

Background: State lands leased for grazing or agricultural purposes are open to the public for hunting and fishing under certain circumstances. Nonconsumptive wildlife activities, otherwise known as "watchable wildlife," are not currently included in the list of multiple use activities which are compatible with the Department of Natural Resources' trust management responsibilities for public lands.

Summary: Nonconsumptive wildlife activities are included as a legitimate reason for entry into trust lands leased for grazing or agriculture purposes when allowed by the Department of Natural Resources managing agencies. Multiple use management of state trust lands must include nonconsumptive wildlife activities, which will be defined by the Board of Natural Resources. Lands are not open and available for wildlife activities when access could endanger crops on the land or when access could endanger the person accessing the land.

Votes on Final Passage:

Senate	48	0
House	95	0

Effective: July 27, 2003

SB 5011
C 183 L 03

Promoting wildlife viewing.

By Senators Jacobsen, Winsley and Kohl-Welles.

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

Background: Wildlife viewing is an increasingly popular form of outdoor recreation. The state of Washington maintains a program to protect and manage watchable wildlife. There is no designated state program to promote wildlife viewing, increase the awareness of wildlife viewing opportunities, or organize wildlife viewing events.

Summary: The Department of Fish and Wildlife is directed to manage wildlife programs in a manner that supports wildlife viewing tourism without impairing wildlife resources.

The departments of Fish and Wildlife and Community, Trade, and Economic Development are directed to host a conference on wildlife viewing tourism, working with interested local governments, state agencies, and stakeholders. The objective of the conference shall be adoption of a strategic plan and specific implementing actions for promotion of wildlife viewing tourism in a manner that provides sustainable rural economic development and maintains wildlife diversity. A summary of conference recommendations must be submitted to the Legislature by December 15, 2003.

Votes on Final Passage:

Senate	49	0	
House	92	0	(House amended)
Senate	43	0	(Senate concurred)

Effective: July 27, 2003

ESB 5014

PARTIAL VETO

C 330 L 03

Authorizing a new subaccount in the public works assistance account.

By Senator Honeyford.

Senate Committee on Natural Resources, Energy & Water

House Committee on Capital Budget

Background: The Public Works Assistance Account, commonly known as the Public Works Trust Fund, was created by the Legislature in 1985 to provide low-interest or interest-free loans to local governments to finance certain specified public works projects. The account receives revenue from the state real estate excise tax, utility and sales taxes on local water, sewer, and garbage collection, and loan repayments. The Public Works Board, within the Department of Community, Trade, and Economic Development, is authorized to make loans from the account to local governments. Each year, the Board submits a list of projects proposed to be funded from the account to the Legislature for approval.

Unless a statute provides otherwise, interest earned on accounts in the state treasury goes to the General Fund.

Summary: A subaccount is created in the Public Works Assistance Account to receive appropriations for distribution by the Public Works Board as grants for water storage and water systems facilities projects. The subaccount is administered by the Public Works Board separately from other programs managed by the board. Projects funded from the subaccount must comply with competitive bid requirements generally applicable to Public Works Assistance Account projects.

Interest earned on subaccount funds is deposited into the subaccount.

Votes on Final Passage:

Senate	49	0	
House	95	0	(House amended)
Senate	47	0	(Senate concurred)

Effective: July 27, 2003

Partial Veto Summary: The Governor vetoed the emergency clause and the provision that retained interest earnings in the new subaccount.

VETO MESSAGE ON SB 5014

May 16, 2003

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 2 and 3, Engrossed Senate Bill No. 5014 entitled:

"AN ACT relating to public water projects;"

This bill creates a subaccount within the Public Works Assistance Account to distribute grants for water storage projects and water system facilities.

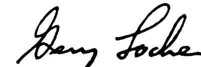
Section 2 amends RCW 43.79A.040, with the intent that the new subaccount would retain its proportionate share of investment income. However, this section of law is related to the Treasurer's trust funds, and the Public Works Assistance Account is not a trust fund. Additionally, this section conflicts with the provisions of Chapter 150, Laws of 2003, which transfers the investment income of the Public Works Assistance Account to the Community Economic Revitalization Program.

Section 3 contains an emergency clause. Given that there is no supplemental budget funding available in the current biennium, there is no rationale for having this law take effect immediately.

For these reasons, I have vetoed sections 2 and 3 of Engrossed Senate Bill No. 5014.

With the exception of sections 2 and 3, Engrossed Senate Bill No. 5014 is approved.

Respectfully submitted,



Gary Locke
Governor

ESSB 5028

C 15 L 03 E1

Clarifying the state's authority to regulate water pollution.

By Senate Committee on Natural Resources, Energy & Water (originally sponsored by Senators Morton and Hale).

Senate Committee on Natural Resources, Energy & Water

House Committee on Agriculture & Natural Resources

Background: In *Public Util. Dist. No. 1 v. Department of Ecology*, 146 Wn.2d 778 (2002), a case involving a federally licensed hydropower facility, the Washington

Supreme Court concluded that the Department of Ecology (DOE) may impose minimum stream flow conditions in a water quality certification pursuant to Section 401 of the Clean Water Act, regardless of whether the applicant had existing water rights that might be affected.

A recent proceeding has raised the issue of whether DOE may use its water quality enforcement authority to impose similar restrictions upon a water right diversion that reduces instream flow and contributes to increased water temperatures that violate Washington State's Water Pollution Control Act.

Summary: DOE is prohibited from using state water quality authority to abrogate, supersede, impair, or condition the full exercise of a water right permit, certificate, exemption or claim. DOE is expressly allowed to use voluntary, incentive-based methods (water right lease/purchase, conservation funding, etc.) to improve water quality when water quality standards cannot reasonably be met through the issuance of water quality permits or orders.

It is expressly stated that provisions of the bill shall not be construed to affect past or future court decisions involving water quality certifications issued for federally licensed hydropower projects under Section 401 of the Clean Water Act. With respect to such hydropower projects, DOE may only require mitigation or remedies to the extent there is substantial evidence the project has caused the water quality violation or problem.

With certain exceptions, the Department of Ecology is authorized to levy civil penalties ranging from $100 to $5,000 per day for water code violations, to be determined after mandatory consideration of specified factors. DOE is expressly allowed to follow the sequence of enforcement actions provided in RCW 90.03.605 (educate water right holders, seek voluntary compliance) for circumstances involving water waste.

Votes on Final Passage:

Senate 26 23

First Special Session

Senate 26 22

House 61 31

Effective: September 9, 2003

SSB 5039

C 273 L 03

Concerning hepatitis C.

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Kastama, Thibaudeau and Kohl-Welles).

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

Background: Hepatitis C is a liver disease caused by the hepatitis C virus. It is a blood borne infection that can lead to cirrhosis and liver cancer. Often the virus does not cause any symptoms or signs when first transmitted and because of this, many individuals are not aware of their infection. Diagnosis often occurs decades after the virus has been contracted.

An estimated 100,000 Washington residents may be infected with hepatitis C. Of these, 60-85 percent may develop chronic infection and 10-40 percent of those with chronic infection may develop cirrhosis, or scarring of the liver. Since December 2000, providers have been required to report cases of hepatitis C to the Department of Health.

The hepatitis C virus is transmitted primarily through exposure to infected blood. Examples where this exposure exists include: injection drug use; blood transfusions or organ transplants prior to 1992; and contact with blood in the workplace.

There is concern that hepatitis C is an emerging, silent epidemic.

Summary: The Secretary of Health must design a state plan for education efforts concerning hepatitis C and the prevention and management of the disease by January 1, 2004. In developing the plan, the secretary shall consult with patient groups, relevant state agencies, providers and suppliers of services to persons with hepatitis C, relevant health care associations and others.

The state plan must include implementation recommendations in the areas of: hepatitis C virus prevention and treatment strategies for groups at risk; education programs to promote awareness about hepatitis C; education curricula for health care providers; training courses for hepatitis C counselors; capacity for voluntary testing programs; a comprehensive model for an evidence-based process for the prevention and management of hepatitis C that is applicable to other diseases; and sources of funding.

The Secretary of Health must develop the state plan only to the extent that, and for as long as, federal or private funds are available for that purpose. Funding for this act may not come from state sources.

The Board of Health is authorized to adopt rules necessary to implement the educational programs/public awareness part of the state plan. The Secretary of Health is required to implement the educational programs/public awareness portion of the plan, to the extent that, and for as long as federal or private funds are available, including grants. Section 1 expires June 30, 2007, and does not create a private right of action.

The Secretary of Health must submit the completed plan to the Legislature by January 1, 2004, and update and report on any progress by December 1 of each even-numbered year.

Health care professionals who contract hepatitis C in the course of their employment and are not able to con-

tinue working are deemed to be dislocated workers for the purpose of receiving training benefits.

Hepatitis C is included in Washington's law against discrimination. Employment decisions may not be based on whether or not an individual is infected with hepatitis C.

Votes on Final Passage:

Senate	49	0	
House	88	0	(House amended)
Senate			(Senate refused to concur)
House	98	0	(House amended)
Senate			(Senate refused to concur)
House			(House refused to recede)
Senate	48	0	(Senate concurred)

Effective: July 27, 2003

SB 5042

C 312 L 03

Concerning the department of natural resources contractual authority.

By Senators T. Sheldon, Morton and Fraser; by request of Commissioner of Public Lands.

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

Background: Contracts, particularly real property contracts such as easements, leases, or purchase and sale agreements, commonly contain indemnification clauses to protect a party to a contract from liability for costs, risks, and third-party claims arising from the agreement.

The Department of Natural Resources (DNR) can currently require contracting parties to protect or indemnify the agency from liability. DNR is not, however, authorized to protect others from liability. Agency staff report that other parties have refused to enter into contracts with DNR because the agency cannot offer reciprocal protections against risk.

The Departments of Agriculture, Corrections, and Transportation can currently indemnify others.

Summary: The Department of Natural Resources (DNR) is granted discretionary authority to indemnify other contracting parties against loss or damages. DNR is not authorized to indemnify others against liability for negligence related to construction, alteration or improvement of structures or improvements attached to real estate. The department must indemnify a private landowner when that landowner does not receive a direct benefit from a right of way or easement contract to cross private land for forest management activities.

Votes on Final Passage:

Senate	48	1	
House	92	0	(House amended)
Senate	43	0	(Senate concurred)

Effective: July 27, 2003

SSB 5044

C 7 L 03

Giving notice of the termination of a tenancy.

By Senate Committee on Government Operations & Elections (originally sponsored by Senators Rasmussen, Roach, Winsley, Kastama and Schmidt).

Senate Committee on Government Operations & Elections
House Committee on Judiciary

Background: The Residential Landlord-Tenant Act requires 20 days notice before a month-to-month tenancy is terminated. A tenancy for a specified time is terminated at the end of the specified time. The Manufactured/Mobile Home Landlord-Tenant Act has similar termination notice requirements but allows tenants who are members of the armed forces to terminate rental agreements with less than the required notice if the tenant receives reassignment orders that do not allow such notice.

Summary: Residential tenants who are members of the armed services may terminate a month-to-month tenancy with less than 20 days notice if they receive reassignment orders that do not allow a 20-day notice. The termination provisions are also applied to tenancies for a specified time. The tenant's spouse or dependant may terminate a tenancy. Members of the National Guard and armed forces reserves are included as tenants who can terminate leases. The tenancy can be terminated upon receipt of deployment orders or reassignment orders. In the termination of tenancies for a specified time, the tenant must give seven days notice to the landlord of the reassignment or deployment order. The Mobile Home Landlord-Tenant Act is amended to mirror the Residential Landlord-Tenant Act.

Votes on Final Passage:

Senate	49	0
House	94	0

Effective: March 24, 2003

SB 5049

C 161 L 03

Designating veterans' history awareness month.

By Senators Roach, Eide, Winsley, Franklin, Rasmussen, Stevens, Schmidt, Haugen, Parlette, Carlson, Esser and Sheahan.

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

Background: According to the U.S. Department of Veteran Affairs there are 25 million living veterans, 48 million Americans who have served in the armed forces since 1776, and nearly one million Americans who have died in combat or combat-related events. On Veterans' Day Americans acknowledge, remember and honor the military personnel who protect and serve our country.

Summary: November of each year is known as veterans' history awareness month. The week in which Veterans' Day occurs is designated as a time for people to celebrate the contributions of veterans to the State of Washington. Educational institutions, public entities and private organizations are encouraged to designate time for activities in commemoration of the contributions of America's veterans.

Votes on Final Passage:

Senate	48	0
House	95	0

Effective: July 27, 2003

SSB 5051

C 167 L 03

Removing the sale of strong beer from the exclusive jurisdiction of the liquor control board.

By Senate Committee on Commerce & Trade (originally sponsored by Senator Jacobsen).

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

Background: "Strong beer" is defined in current law as beer that exceeds 8 percent alcohol by weight.

The Liquor Control Board issues licenses to restaurants, taverns, private clubs and specialty shops that sell beer and wine. If the board finds that the sale of fortified wine (wine exceeding 14 percent of alcohol by volume) would be against the public interest, the board can restrict a specialty shop owner to selling only beer and table wine (wine with up to 14 percent alcohol by volume).

There are several per gallon taxes imposed on beer manufacturers and distributors. There are also several taxes imposed on the retail sales of spirits. Strong beer is currently classified as a spirit for the purposes of some of these taxes.

Beer manufacturers, distributors, and importers are regulated by the Liquor Control Board.

Summary: Strong beer may be sold by restaurant, tavern, private club, grocery store, and specialty shop license holders. If the board finds that the sale of strong beer is against the public interest, it can restrict a specialty shop or grocery store license holder to selling only beer and table wine.

Per gallon taxes on the manufacturing and distribution of beer apply to strong beer. Strong beer is no longer classified as a spirit for purposes of sales tax.

The following provisions for manufacturers, distributors and importers apply to beer in current law, and are extended to strong beer.

Beer manufacturers must provide a statement to the board each month showing the quantity of strong beer sold to distributors. Beer manufacturers located outside the state of Washington must hold a certificate of approval to allow sales and shipment of their strong beer to licensed Washington beer distributors or importers. Manufacturers must sell strong beer in sealed packages or barrels. Microbreweries can act as distributors and retailers of strong beer of their own production, and can receive an endorsement to sell strong beer for on-premises consumption.

Beer distributors can sell strong beer purchased from licensed Washington breweries, licensed beer importers, or suppliers of foreign beer to licensed beer retailers and other distributors, and can export strong beer from the state of Washington.

Strong beer may not be sold at farmers markets.

Beer importers can import strong beer produced outside of Washington State into Washington, and they can sell the strong beer to licensed beer distributors or export the strong beer from the state. Imported strong beer must conform to labeling regulations.

The Liquor Control Board must report to the Legislature on the impacts of strong beer sales, and must report back to the Legislature on its findings by December 31, 2004.

Votes on Final Passage:

Senate	44	3	
House	94	2	(House amended)
Senate	47	1	(Senate concurred)

Effective: July 1, 2003

SSB 5062
C 173 L 03

Creating the Puget Sound recreational fisheries enhancement oversight committee.

By Senate Committee on Parks, Fish & Wildlife (originally sponsored by Senators Doumit, Oke, Jacobsen, Winsley, Rasmussen and Kohl-Welles).

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

Background: The Puget Sound Recreational Fisheries Enhancement Program was created by the Legislature in 1993 to increase recreational fishing opportunities for salmon and bottomfish in Puget Sound. The Department of Fish and Wildlife is required to produce delayed-release chinook salmon, with a production goal of three million fish annually. The department is also required to research and develop programs for the artificial rearing and release of marine bottomfish species.

The program is funded with a portion of each saltwater and combination recreational fishing license fee. Funds are deposited in the recreational fisheries enhancement account, which is dedicated solely to the enhancement program.

In the 2002 supplemental budget, one of the hatcheries used to raise delayed-release chinook was closed. Concerns have been raised by recreational fishers that dedicated funds are not being used to support the enhancement program.

Summary: The Puget Sound Recreational Fisheries Enhancement Oversight Committee is created. The director of the Department of Fish and Wildlife must appoint at least seven members to the committee to ensure broad representation from sport fishing organizations.

The committee must advise the department on all aspects of the Puget Sound Recreational Fisheries Enhancement Program, including the annual budget and proposed annual production of salmon and other species.

Funds in the recreational fisheries enhancement account may not be used to backfill shortfalls in other state funding sources.

Votes on Final Passage:

Senate	45	4
House	95	0

Effective: July 27, 2003

SB 5065
C 292 L 03

Concerning the practice of geology and soil science.

By Senator Swecker.

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

Background: In 2000 the Legislature enacted Senate Bill 6455. This bill created a licensing program for geologists at the Department of Licensing. The bill provided that applicants applying for licensure before July 1, 2002 were not required to take a written examination if they met specified criteria.

Summary: Applicants who apply for geologist licensure before July 1, 2003 and who meet specified criteria are not required to take a written examination.

The state, counties and cities are permitted to use either soil scientists or licensed geologists to perform geology work until July 1, 2005.

Votes on Final Passage:

Senate	40	5	
House	96	0	(House amended)
Senate	42	1	(Senate concurred)

Effective: May 14, 2003

ESSB 5071
C 2 L 03 E1

Revising business and occupation taxation for certain aviation businesses.

By Senate Committee on Ways & Means (originally sponsored by Senators Reardon, Schmidt, Shin, Stevens and Rasmussen).

Senate Committee on Ways & Means
House Committee on Finance

Background: Sales tax is imposed on retail sales of most items of tangible personal property and some services, including construction and repair services. Sales and use taxes are imposed by the state, counties and cities. Sales and use tax rates vary between 7 and 8.9 percent, depending on location.

Washington's major business tax is the business and occupation (B&O) tax. The B&O tax is imposed on the gross receipts of business activities conducted within the state, without any deduction for the costs of doing business.

The sale and repair of goods is taxable under the sales tax and the B&O tax, but there are some exemptions. The sale and repair of boats, airplanes, railroad cars, and locomotives, or their components, that are used in instate or foreign commerce are exempt from sales tax. The B&O rate for these sales and repairs is 0.484 percent rather than the 0.471 retailing rate.

Summary: The B&O tax rate is reduced from 0.484 percent to 0.275 percent on the sale and repair of equipment used in interstate or foreign commerce by a person classified by the Federal Aviation Administration as a FAR part 145 certificated repair station with airframe and instrument ratings and limited ratings for nondestructive testing, radio, class 3 accessory, and specialized services. The lower rate ends July 1, 2006.

Businesses using this special tax rate are required to report information on job creation/retention goals, actual jobs created/retained, average wages, average wages for employees hired after using the reduced rate, and the dollar value of the reduced rate.

Votes on Final Passage:

Senate	34	11
First Special Session		
Senate	34	10
House	89	3

Effective: August 1, 2003

ESB 5073

PARTIAL VETO

C 327 L 03

Adopting provisions for cooperative watershed management plans.

By Senators Fraser, Honeyford, Hale and Kohl-Welles.

Senate Committee on Natural Resources, Energy & Water

House Committee on Agriculture & Natural Resources

Background: Chapter 90.82 RCW establishes procedures and policies for initiating voluntary watershed planning at the local level. Planning is conducted according to the Water Resource Inventory Area (WRIA), with each WRIA corresponding to a watershed or river basin. Planning is conducted in three phases: (1) organization of a planning unit and determination of the scope of planning. Appointed planning units must address water quantity issues in the WRIA or multi-WRIA area. Planning units may, but are not required to, address other issues such as water quality, instream flows, or habitat protection; (2) water quantity assessment, development of strategies for future use, and recommendations for each issue area the unit chooses to address; and (3) development of a watershed plan and recommendations for action.

Upon application, the Department of Ecology (DOE) is authorized to provide up to $50,000 for phase one in single WRIA planning units, and up $75,000 in multi-WRIA units; up to $200,000 for phase two; and up to $250,000 for phase three.

Summary: Statutory and fiscal authority is provided so that numerous local government entities with water-related services and functions can more fully cooperate and coordinate efforts as watershed plans are adopted and implemented. In addition to cities and counties, the following special district entities are expressly authorized to expend water-related revenues, raise water-related funds, and participate in cooperative watershed management activities: water and sewer, public utility, port, diking, drainage, flood control, aquifer, shellfish, lake management, irrigation, reclamation, conservation, and other similar special purpose districts.

Eligible implementation activities are broadly defined to include oversight of plan implementation, technical support, monitoring, and projects in the areas of water supply, water quality, and habitat protection. The range of management plans entities may work toward implementing can include plans for watersheds, salmon recovery, growth management, shoreline management, and Puget Sound Water Quality, as well as other comprehensive WRIA-based management plans. Public agencies are expressly allowed to form separate legal entities, to be called watershed management partnerships, under the Interlocal Cooperation Act (ICA) (chapter 39.34 RCW). These partnerships, acting as separate legal entities, may coordinate plan implementation. They are also authorized to submit revenue proposals at general or special elections, to contract indebtedness, and to issue and sell general obligation and revenue bonds. Watershed partnerships must designate a treasurer for handling the partnership's funds, and the treasurer must be a county treasurer or a city treasurer.

These local government entities are authorized to expend up to 10 percent of their existing water-related revenues and water-related funds on the implementation of watershed plan projects or activities. This 10 percent limit applies only to the new activities coming out of the plan, not existing, ongoing and traditional water service activities. This limit does not apply to public utility district water-related revenues or to new revenues that may be authorized by voter approval. Revenues dedicated to repayment of debt instruments are not to be used. Revenue proposals for a watershed management partnership must ensure that persons or property are not taxed or assessed by more than one agency for a specific watershed management plan project, program, or activity.

Votes on Final Passage:

Senate	49	0	
House	62	34	(House amended)
Senate			(Senate concurred in part; refused to concur in part)
House	67	30	(House amended)
Senate	47	0	(Senate concurred)

Effective: July 27, 2003

Partial Veto Summary: The Governor vetoed Section 5 of ESB 5073. Section 5 provided for the submission of watershed management partnership revenue proposals by special or general election.

VETO MESSAGE ON SB 5073

May 16, 2003

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 5 Engrossed Senate Bill No. 5073 entitled:

"AN ACT Relating to watershed management;"

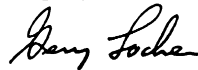
This bill provides a number of mechanisms that will assist local governments to cooperate among themselves in watershed planning efforts.

With the concurrence of the prime sponsor, I have vetoed section 5, which contains some confusing language.

With the exception of section 5, I am signing Engrossed Senate Bill No. 5073.

For this reason, I have vetoed section 5 of Engrossed Senate Bill No. 5073.

Respectfully submitted,



Gary Locke
Governor

2SSB 5074
C 313 L 03

Establishing contract harvesting of timber on state trust lands.

By Senate Committee on Ways & Means (originally sponsored by Senators Morton, Oke, Doumit, T. Sheldon, Fraser and Rasmussen; by request of Commissioner of Public Lands).

Senate Committee on Natural Resources, Energy & Water
Senate Committee on Ways & Means
House Committee on Agriculture & Natural Resources
House Committee on Appropriations

Background: The Department of Natural Resources (DNR) sells timber from state forest lands by putting tracts of timber up for bid. DNR examines the tract to be sold, establishes an appraised value for the timber, and sets this value as the minimum bid for the timber sale. The successful bidder who is awarded the contract generally has three years to harvest the timber from the sale.

DNR is not authorized to contract with someone to harvest and process the timber so that DNR can sell sorted logs. It is suggested that DNR may be better able to take advantage of the timing of sales, reduce pre-sale costs, and deal with sensitive environmental problems if they have this additional authority.

Summary: DNR must establish and implement contract harvesting when it can increase revenues for the trust beneficiaries and increase environmental protection. "Contract harvesting" is defined as a situation in which DNR contracts with an individual to harvest timber on state forest lands and process the timber into logs sorted by DNR specifications. DNR then sells the individual log sorts.

Contract harvesting cannot be used for more than 10 percent of the total annual volume of timber offered for sale. All contracts must be compatible with the Office of Financial Management (OFM) guide to public service contracts.

The Board of Natural Resources must determine whether any special appraisal practices are necessary for logs sold by the contract harvesting method, and if so, adopt them. When considering adopting special appraisal practices, the board must consider and adopt procedures to rapidly market and sell log sorts that fail to receive the required minimum bid at auction. The board must also establish policies and procedures for DNR to evaluate and select contract harvesters. The procedures must include a method for certified contract harvesters who are excluded from the list of approved contract harvesters to appeal the decision to not include these harvesters on the list to the board.

For tax purposes, a government agency that harvests or markets timber must provide the harvester purchasing the timber with information about its harvesting and marketing costs. Harvesting and marketing costs are excluded from the stumpage value of timber from public land if the timber is harvested by a government agency.

The contract harvesting revolving account is created in the custody of the State Treasurer. Appropriations are not required for expenditures from the account, but the account is subject to allotment procedures. All receipts from the gross proceeds of the sale of logs from contract harvesting must be deposited into this account. Expenditures may only be used for paying the costs of contract harvesting sales, and may only be authorized by the Commissioner of Public Lands or the commissioner's designee. Interest generated by the account must be credited to the account.

The final receipt of gross proceeds on a contract sale must be kept in the contract harvesting revolving account until all required costs for that sale are paid. The net proceeds from the sale are paid to the State Treasurer for distribution to the appropriate trust accounts after the authorized deductions are made.

The balance in the contract harvesting revolving account cannot exceed $1 million at the end of each fiscal year. Moneys in excess of $1 million must be disbursed to the trust beneficiaries in accordance with existing procedures. If DNR terminates the use of contract harvesting sales, any existing funds in the contract harvesting revolving account must be returned to the resource management cost account and the forest development account in proportion to each account's initial contribution to the establishment of the contract harvesting revolving account.

DNR must provide a report to the appropriate legislative committees by December 31, 2006, on the costs and effectiveness of the contract harvesting program.

Votes on Final Passage:

Senate	47	2
House	95	0

Effective: July 27, 2003

SB 5076

C 28 L 03

Determining a "highest responsible bidder" for valuable materials from state-owned aquatic lands.

By Senators Morton, Fraser, T. Sheldon and Doumit; by request of Commissioner of Public Lands.

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

Background: The Department of Natural Resources (DNR) sells geoducks and other valuable materials from state-owned aquatic lands. Generally, DNR awards sales of valuable materials to the highest responsible bidders at public auctions. In determining a highest responsible bidder, DNR may consider (in addition to bid price) a bidder's ability to perform the contract, whether the bidder has previously complied with the terms of past contracts, whether the bidder has been convicted of a crime related to public lands or natural resources, and whether the bidder is controlled by, or will subcontract with, bidders that are not responsible. If DNR finds that a high bidder meets any of these criteria, it may award the sale to the next highest responsible bidder or reject all bids.

DNR lacks explicit authority to include a bidder's prior failure to complete a sale as grounds for rejecting a bid. Uncompleted sales can cause delays in harvest and increased expense to DNR before the agency can offer the sale again.

Summary: In addition to bid price, DNR may consider whether a bidder for a sale of valuable materials from state-owned aquatic lands has, in the past five years, failed to complete a sale that he or she was awarded. Failure to complete a sale includes not entering into a resulting contract or not paying the difference between the deposit and the total amount due. If DNR determines that an apparent high bidder failed to complete a sale, it may award the sale to the next highest responsible bidder or reject all bids. DNR may not consider failures to complete sales bid prior to January 1, 2003.

Votes on Final Passage:

Senate	49	0
House	90	2

Effective: July 27, 2003

SSB 5088

C 29 L 03

Recognizing that the use of certain land in Tacoma, for school purposes, is valid and meets the requirements of section 2, chapter 123, Laws of 1907.

By Senate Committee on Natural Resources, Energy & Water (originally sponsored by Senators Regala, Winsley, Franklin and Fraser).

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

Background: The city of Tacoma has been asked by the Tacoma Public Schools to use part of land currently dedicated to the city for road and park purposes for a small part of a new school building. The specific section is approximately 90 feet of North Mason Avenue lying between 11th North and 13th North within the Plat of Section 36, Township 21 N, Range 2 E. The land was acquired by the city of Tacoma under House Bill 291 in 1907 for public purposes. The grant contains specific language to the effect that the property will automatically revert to the state of Washington without action by the state if the use changes. The language of the 1907 act must be modified to allow a different public use.

Summary: The Legislature finds that by legislative enactment in 1907, the state dedicated certain lands in the city of Tacoma for street, park and boulevard purposes. The Legislature further finds that the public schools plan to renovate Jefferson Elementary School and that the renovation will result in a small portion of the school buildings being located on lands that were dedicated by the state to the city of Tacoma for other purposes. The Legislature recognizes the request of the Tacoma Public Schools and finds that the renovation and uses of the lands dedicated to the city of Tacoma are fully consistent with the purposes of the dedication made by the Legislature in 1907. Public access and recreational use of school playgrounds continue to be provided. Chapter 123(2), Laws of 1907, is amended to allow an additional public use on block 279 only.

Votes on Final Passage:

Senate	49	0
House	92	0

Effective: April 17, 2003

SB 5090

C 30 L 03

Determining which fire fighters or law enforcement officers may elect or be elected to certain pension and disability boards.

By Senators Carlson, Fraser, Spanel and Rasmussen; by request of Joint Committee on Pension Policy.

Senate Committee on Ways & Means
House Committee on Appropriations

Background: Each city having a population of 20,000 or more, and each county, has a disability board to hear disability claims and make medical benefit determinations for its active and retired members of the Law Enforcement Officers' and Fire Fighters' Retirement System (LEOFF) Plan 1. Board members must be active or retired members of LEOFF Plan 1. The boards are elected by other members of LEOFF Plan 1 and the earlier Firemen's Relief and Pension plan.

Summary: Active and retired police officers and fire fighters may serve on the LEOFF Plan 1 disability boards whether they are members of LEOFF Plan 1 or not. Members of the board continue to be elected by members of the LEOFF Plan 1 and the Firemen's Relief and Pension plan only.

Votes on Final Passage:

Senate	48	0
House	95	0

Effective: July 27, 2003

SB 5094
C 157 L 03

Providing optional service credit for substitute service to members of the school employees' retirement system.

By Senators Carlson, Jacobsen, Spanel, Fraser, B. Sheldon and Rasmussen; by request of Joint Committee on Pension Policy.

Senate Committee on Ways & Means
House Committee on Appropriations

Background: Substitute employees of school districts who work at least 70 hours per month for at least five months in each of two successive years are eligible for service credit in the School Employees' Retirement System (SERS). When an employee becomes eligible for credit in this manner, both the employee and the employer are billed retrospectively for the contributions that would have been made during that period. Contributions made in this way may be withdrawn at the time of the employee's termination if the employee chooses not to retain the service credit.

Summary: Substitute employees of school districts who become eligible for service credit in SERS may choose not to apply for the credit, in which case neither the employees nor the employer make contributions.

Votes on Final Passage:

Senate	49	0
House	89	0

Effective: July 27, 2003

SB 5096
C 31 L 03

Allowing members of the teachers' retirement system plan 1 to use extended school years for calculation of their earnable compensation.

By Senators Regala, Winsley, Carlson, Spanel, Jacobsen, Fraser, B. Sheldon, Kohl-Welles and Rasmussen; by request of Joint Committee on Pension Policy.

Senate Committee on Ways & Means
House Committee on Appropriations

Background: The retirement benefit paid to members of the Teachers' Retirement System (TRS) Plan 1 is calculated by multiplying their years of service by 1 percent of their average earnable compensation in their two highest-paid consecutive fiscal years. Some teachers work in schools that operate on alternative calendars running into July. Members retiring at the end of one of these extended school years may receive a reduced benefit relative to what they would receive if working on a regular school calendar because their last weeks of employment occur after the end of the fiscal year. Their average earnable compensation in this case would be reduced by the difference between their compensation in July of the year that they retire and the July two years prior.

Summary: Members of TRS Plan 1 are allowed to use their two highest-paid consecutive school years rather than their two highest paid fiscal years for the purpose of determining their average final compensation.

Votes on Final Passage:

Senate	49	0
House	95	0

Effective: July 27, 2003

SB 5100
C 32 L 03

Paying survivor benefits in accordance with Title 26 U.S.C. Sec. 101(h) as amended by the Fallen Hero Survivor Benefit Fairness Act of 2001.

By Senators Fraser, Carlson, Winsley, Spanel, Parlette and Rasmussen; by request of Joint Committee on Pension Policy.

Senate Committee on Ways & Means
House Committee on Appropriations

Background: The Fallen Hero Survivor Benefit Fairness Act of 2001 amended Title 26, Section 101(h) of the United States Code to exempt pension benefits paid in the form of a survivor annuity, on account of the duty-related death of a public safety officer, from the federal income tax. State laws have not been brought into compliance with this act.

Summary: A new section is added to Chapter 41.04 RCW specifying that payments to beneficiaries of public safety officers killed in the line of duty are made in compliance with Title 26, Section 101(h) of the United States Code. Survivor annuities for qualifying survivors are exempt from income taxes.

Votes on Final Passage:

Senate	46	0
House	95	0

Effective: July 27, 2003

SSB 5105

C 171 L 03

Ensuring the quality and availability of educational interpreters.

By Senate Committee on Education (originally sponsored by Senators Fraser, B. Sheldon, Carlson, McAuliffe and Kohl-Welles).

Senate Committee on Education
House Committee on Education

Background: Federal and state laws require the state to ensure that appropriate special education and related services are provided to children with disabilities who are eligible to receive them. A related service is a supportive service that is necessary to enable the child with the disability to benefit from the special education. Provision of an educational interpreter who provides sign language interpretation to deaf and hearing impaired K-12 students is, in certain circumstances, a related service. Currently, there are no standardized qualifications required of educational interpreters. There are 454 deaf students and 970 hearing impaired students in the K-12 system.

Summary: By November 30, 2004, the Office of the Superintendent of Public Instruction must consult with educators, parents, special education organizations and other relevant organizations and then report to the Governor, the appropriate legislative committees, and the State Board of Education on the following:

- a review of state and federal requirements and funding sources for serving the educational needs of deaf and hearing impaired students; and
- recommendations on several options to increase and maintain the quality and availability of educational interpreters.

Votes on Final Passage:

Senate	47	1	
House	94	0	(House amended)
Senate	43	0	(Senate concurred)

Effective: July 27, 2003

SSB 5117

C 33 L 03

Regulating the sale, distribution, and installation of air bags.

By Senate Committee on Highways & Transportation (originally sponsored by Senators Eide and Kohl-Welles).

Senate Committee on Highways & Transportation
House Committee on Transportation

Background: Under current law, the Washington State Patrol is required to enforce vehicle equipment laws and may adopt rules relating to vehicle equipment standards. However, current law, both in statute and in rule, does not specifically address standards governing the installation or distribution of previously deployed air bags.

Summary: Persons who knowingly install, reinstall, or distribute as an auto part previously deployed motor vehicle air bags are guilty of a gross misdemeanor. If found guilty under this provision, defendants are subject to a maximum $5,000 fine and/or a one-year jail sentence.

When previously deployed air bags are replaced, either by new air bags or salvaged air bags that have not yet been deployed, the replacement air bag must conform to manufacturer requirements. Installers must verify, when replacing air bag systems, that the entire air bag system is operating properly.

Votes on Final Passage:

Senate	47	1
House	87	4

Effective: July 27, 2003

SSB 5120

C 366 L 03

Changing provisions relating to ignition interlock devices.

By Senate Committee on Judiciary (originally sponsored by Senators Rossi, Kline, Oke, Roach, Esser, Swecker, Deccio, Stevens, Benton, Hale, Hewitt, Mulliken, Honeyford, Johnson, Schmidt, Sheahan and Horn).

Senate Committee on Judiciary
House Committee on Judiciary

Background: Current law gives discretion to courts to order a person convicted of any offense involving the use, consumption, or possession of alcohol while operating a motor vehicle to drive only a motor vehicle that is equipped with an ignition interlock or other biological or technical device. Courts are required to order this restriction for a first driving under the influence of alcohol or drugs (DUI) conviction or alcohol-related deferred prosecution involving a blood alcohol concentration of at

least .15 or if a person refused to take a breathalyzer test. The court is also required to impose the ignition interlock restriction for a second or subsequent DUI conviction or when it is a person's first DUI conviction but he or she has had a previous alcohol-related deferred prosecution or it is a deferred prosecution and the person has had a previous DUI conviction.

In situations where a person's driver's license was suspended or revoked due to DUI, the Department of Licensing determines the person's eligibility for licensing based, among other things, upon reports provided by an alcoholism agency or probation department showing enrollment and participation in an approved program.

Summary: In the same situations in which a court is required to impose a requirement that a person drive only a motor vehicle equipped with an ignition interlock device, the Department of Licensing must impose the restriction instead of the courts. The situations when the restriction must be imposed are: (1) if it is the person's first DUI conviction or an alcohol-related deferred prosecution and, in each case, the blood alcohol concentration involved was at least .15 or the person refused to take a breathalyzer test; (2) a second or subsequent conviction of DUI; or (3) a first DUI conviction but the person has a previous alcohol-related deferred prosecution or it is an alcohol-related deferred prosecution but the person has a previous DUI conviction. It is required that the ignition interlock device be calibrated to prevent the motor vehicle from being started when the breath sample provided has an alcohol concentration of .025 or more.

When a person's driver's license has been suspended or revoked due to a DUI conviction, and the person is restricted to driving only a vehicle with an ignition interlock, the Department of Licensing may not reinstate the person's license unless written verification of installment of the required device on a vehicle owned and/or operated by the person seeking reinstatement is provided by an ignition interlock company doing business in the state of Washington.

Votes on Final Passage:

Senate	49	0	
House	91	0	(House amended)
Senate	49	0	(Senate concurred)

Effective: July 27, 2003

SB 5122
C 34 L 03

Revising provisions of the state trademark law.

By Senators Johnson, Kline and Esser.

Senate Committee on Judiciary
House Committee on Judiciary

Background: A trademark is any word, name, symbol, or device adopted or used by a person to identify the goods made or sold by that person and to distinguish them from goods made or sold by others. Registration of a trademark provides the registered user with exclusive use of that trademark and protects against infringements upon the user's rights. A trademark may be registered with: 1) the U.S. Trademark and Patent Office, for the broadest protection; 2) the Washington Secretary of State's Office, for a trademark used exclusively within the state or region; or 3) both the federal office and the state office.

RCW 19.77 sets out Washington's trademark registration law. Washington's law is modeled after the Model State Trademark Bill (MSTB). Versions of the MSTB form the foundation of state trademark law in 46 states. Over the years, Washington's law has been amended several times in light of MSTB revisions. In 2001 the Washington State Trademark Review Committee was assembled to review recent MSTB revisions. After comparing the revised MSTB to both federal and state trademark law, the committee determined that some sections of RCW 19.77 were outdated and unclear. The committee proposes adopting uniform provisions from the MSTB and conforming Washington law more closely to federal law.

Summary: RCW 19.77 is amended to adopt uniform provisions from the revised Model State Trademark Bill and more closely parallel federal trademark laws.

Key amendments include the following:

1) The definition of trademark abandonment is modified. Non-use of a trademark for three consecutive years, rather than two, constitutes prima facie evidence of trademark abandonment;
2) The term for which a trademark is registered to a user is reduced from six years to five years;
3) The current classification of goods and services is deleted. The Secretary of State is authorized to establish and regulate new classifications. The statute directs the secretary to conform, as much as possible, Washington's classifications to the classifications used by the United States Patent and Trademark Office; and
4) Court ordered remedies available to litigants in trademark registration cases are clarified. A court may order attorneys' fees and, where the court finds a showing of bad faith, treble damages.

Votes on Final Passage:

Senate	46	0
House	95	0

Effective: July 27, 2003

SB 5123

C 35 L 03

Revising the Washington business corporation act.

By Senators Johnson, Kline and Esser.

Senate Committee on Judiciary
House Committee on Judiciary

Background: The Washington Business Corporations Act provides a legal framework for the creation, organization, and dissolution of corporations incorporated in Washington State. Washington's law requires corporations to file articles of incorporation; statutory guidelines require that articles enumerate rules governing the sale of corporate shares and the rights of shareholders, including shareholders' voting group rights.

Summary: Changes are made to the Washington Business Corporations Act in two distinct areas. State information requirements are changed to conform to recently adopted Securities and Exchange Commission requirements. Where shareholders expressly consent in advance to being treated as members of a household, corporations may send a single copy of shareholder materials to several shareholders who have the same address.

Shareholder voting group provisions are clarified and streamlined. Changes include:

- Allowing a board of directors to approve amendments to articles of incorporation affecting reverse stock splits.
- Changing rules governing group voting on amendments to articles of incorporation: (a) limiting group voting to groups of shareholders that could be adversely affected by the amendment; (b) clarifying that the entire class or series may vote where an amendment will result in a cash-out, of part or all, of the shares of that class or series; (c) clarifying that only groups of shareholders formally authorized as classes or designated as series in the articles of incorporation may vote in groups; (d) clarifying that similarly affected classes and series should be combined into a single voting group; and (e) clarifying that corporations may limit or deny group voting rights, if so stated in the articles of incorporation.
- Clarifying rules governing group voting on mergers and share exchanges: (a) the rights of a group to vote on a merger or share exchange is no longer predicated on whether voting would be required if the same provisions were effected through an amendment to the articles of incorporation; (b) a group may vote on a share exchange plan in the same circumstances as they would be entitled to vote on a merger plan; and (c) a new section is created describing the specific circumstances in which shareholders voting on a plan of merger or share exchange will require separate voting group rights.
- Allowing a shareholder whose relationship to the corporation is being terminated, via an amendment to the articles of incorporation, to continue to have a right to dissent and seek appraisal.

Votes on Final Passage:

Senate	46	0
House	95	0

Effective: July 27, 2003

SSB 5133

C 180 L 03

Adopting the revised interstate compact for juveniles.

By Senate Committee on Children & Family Services & Corrections (originally sponsored by Senators Carlson, Stevens, Hargrove, McCaslin, Kline, Sheahan, Kohl-Welles, Schmidt, McAuliffe, Oke, Rossi, Regala, Esser, Deccio, Swecker, Brandland, Parlette, Zarelli and Rasmussen).

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

Background: The current Interstate Compact on Juveniles was adopted in 1955. It allows states to cooperate in the supervision of juvenile offenders residing in states other than the original state of adjudication, and for the return of juveniles who have run away or escaped across state lines.

Concerns have been raised that the existing compact is outdated, does not provide a mechanism for resolving disputes between states, does not take into consideration the growth of juvenile issues, and has become inconsistent due to various amendments by individual states.

Summary: Adopting the compact makes Washington a compacting state and a voting member of the Interstate Commission. The commission is charged with promulgating the rules used to govern the compacting states, as well as the rules used in the day-to-day operation of the compact. The compact also contains enabling language, clarifies limits on the impact of the compact on the state's ability to legislate regarding juveniles, and requires the Governor to select the compact administrator from a list of six individuals, with three names provided by the Juvenile Court Administrators and three names provided by the Juvenile Rehabilitation Administration.

Votes on Final Passage:

Senate	47	0	
House	85	10	(House amended)
Senate	43	0	(Senate concurred)

Effective: July 1, 2004, or when the interstate compact for juveniles is adopted by 35 or more states, whichever occurs later.

SB 5134
C 159 L 03

Changing border county higher education opportunities.

By Senators Carlson, Zarelli, Kohl-Welles, Schmidt, Horn and Shin.

Senate Committee on Higher Education
House Committee on Higher Education

Background: In 1999 the Legislature created the Border County Higher Education Opportunities Pilot Project administered by the Higher Education Coordinating Board (HECB). Under the pilot project, people who have resided in certain Oregon counties for at least 90 days are eligible to pay resident tuition rates when enrolled at participating Washington institutions.

In December 2001 the HECB reported positive outcomes for the project and recommended the pilot project be made permanent.

During the 2002 session, the project was continued as a pilot. Several Oregon counties were added, and Columbia Basin and Walla Walla Community Colleges, and the Tri-Cities branch of Washington State University were added to the list of participating institutions. The residency requirement for eligible students was increased to one year.

Summary: The Border County Higher Education Opportunities Project is made permanent. The residency requirement for eligible Oregon students is returned to a 90-day period.

Votes on Final Passage:

Senate	48	0
House	88	1

Effective: July 27, 2003

E2SSB 5135
C 407 L 03

Requiring policies regarding the efficient use of instructional resources.

By Senate Committee on Ways & Means (originally sponsored by Senators Carlson, West, Horn, Schmidt and Rossi).

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

Background: Legislators nationwide have expressed concern about the increasing number of years it takes to complete a baccalaureate degree. Fiscal constraints and productivity/ accountability demands have been the catalysts behind the search for alternatives to shorten the time to degree completion. One of the strategies, suggested by research, that might encourage students to earn only the number of credits required for a degree, is an excess-credit surcharge. Proponents of such a policy say that "lingering students are expensive to the state because they take so many courses and occupy spaces that other students need."

Generally, tuition is less than what the state spends to educate an undergraduate. Thus, a public subsidy exists and its value is tabulated annually for Washington by the Higher Education Coordinating Board. Subsidies vary but range on average from $3,773 at two-year colleges to $4,950 a year for those taking classes from a state research university to $5,228 a year for those enrolled at a regional, comprehensive university to $8,578 a year for an upper-division course from one of Washington's five research university branch campuses. Together with operation fees paid by enrolled students, these resources support the delivery of college-level instruction to citizens who participate.

Summary: Each state baccalaureate institution and the State Board for Community and Technical Colleges must develop policies to ensure enrolled undergraduates complete degree and certificate programs in a timely manner. Institution-based policies must address, at a minimum, students who (a) accumulate more than 125 percent of the credits necessary to graduate; (b) drop more than 25 percent of their class load during a term; and (c) are on academic probation for longer than one term. State higher education institutions may assess a tuition surcharge for continued enrollment of such students as a matter of local policy.

Each baccalaureate institution and the State Board must report to the Higher Education Coordinating Board (HECB) by January 30, 2004 on resource-efficient, capacity-conscious degree completion policies and provide baseline data about affected students. Institutional reports must describe actions taken to improve graduation efficiency, particularly reduction of barriers to enrollment in courses required for a degree major.

The HECB must summarize institutional policies and baseline student data, and report back to the higher education policy committees of the Legislature by March 1, 2004. As part of its report to the Legislature, the HECB shall recommend whether increased tuition and fees should be uniformly charged to students attending public colleges and universities as an additional incentive for the timely completion of degrees and certificate programs.

Votes on Final Passage:

Senate	28	21	
House	97	1	(House amended)
Senate	37	11	(Senate concurred)

Effective: July 27, 2003

ESSB 5142

PARTIAL VETO

C 36 L 03

Permitting the children of certificated and classified school employees to enroll at the school where the employee is assigned.

By Senate Committee on Education (originally sponsored by Senators Carlson, Eide, Schmidt, Johnson, B. Sheldon, Shin, Kohl-Welles, Rasmussen and Esser).

Senate Committee on Education
House Committee on Education

Background: Under current law, a student must generally attend the school designated for the geographic attendance area in the school district in which he or she lives. This is called the student's resident district. For parents wanting to enroll their child in a different school, there are two different transfers potentially available: (1) intradistrict transfer, from one school to another school in the same district, or (2) interdistrict transfer, from a school in one district to a school in a different district.

Washington law allows school districts to adopt their own policies governing intradistrict transfers. Interdistrict transfers are governed, in part, by statute. A parent wishing to transfer his or her child to a school in another district must get both a release from the resident district school and an acceptance from the nonresident district. The reasons for release are set out in statute. Schools accepting interdistrict transfers must establish a policy with fair, rational and equitable standards for acceptance or rejection. Possible reasons for rejection are set out in statute. Written notification of approval or rejection of the transfer request is required and parents may appeal the decisions. School districts are strongly encouraged to honor a parental request for a transfer. No school district or school is required to accept a student requesting a transfer if the district or school does not have space, unless the transfer request is under the choice provisions of the newly enacted federal No Child Left Behind Act.

Summary: School districts must allow children of full-time certificated and classified employees to enroll (1) at a school where the employee is assigned, or (2) at a school in the district's K-12 continuum that includes the school to which the employee is assigned. This requirement does not apply to students who reside out of state.

For interdistrict transfers, the nonresident school district may reject a transfer request if the nonresident student (1) has a history of convictions, violent or disruptive behavior, or gang membership, (2) the student has been expelled or suspended from school for more than ten consecutive days, or (3) enrollment of a child under this section would displace a child who is a resident of the district, except that if a child is admitted under this section, that child must be permitted to remain enrolled until he or she completes his or her schooling.

There is a reporting requirement regarding the number of students who apply for enrollment under this act and the total number of students applying for any transfer type who are denied enrollment.

Votes on Final Passage:

Senate	41	8
House	94	2

Effective: July 27, 2003

Partial Veto Summary: The reporting requirement was vetoed.

VETO MESSAGE ON SB 5142-S

April 17, 2003

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, Engrossed Substitute Senate Bill No. 5142 entitled:

"AN ACT Relating to permitting children of certificated and classified school employees to enroll at the school where the employee is assigned;"

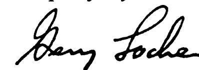
This bill requires, upon application, that school districts enroll children of their certificated and classified school employees in the school to which the employee is assigned, or to one of the schools in the feeder school system for the school to which the employee is assigned.

Section 3 of this bill would have provided for certain reporting requirements. The veto of this section has been requested by the Superintendent of Public Instruction, and has the concurrence of the bill sponsor and the sponsor of the Section 3 amendment. Nonetheless, I understand that the Superintendent of Public Instruction intends to provide information regarding the provisions of this bill to the legislature by means of a survey. I support this less burdensome approach.

For these reasons, I have vetoed section 3 of Engrossed Substitute Senate Bill No. 5142.

With the exception of section 3, Engrossed Substitute Senate Bill No. 5142 is approved.

Respectfully submitted,



Gary Locke
Governor

SSB 5144

C 314 L 03

Protecting forest land from exotic forest insects or diseases.

By Senate Committee on Natural Resources, Energy & Water (originally sponsored by Senators Morton and Oke).

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

Background: Numerous studies indicate that the health of Washington forests is declining, as is the health of forests in other western states. An increasing number of

forest stands are becoming susceptible to insect and disease outbreaks. There is an increasing concern about present management practices and the growing risk of exotic and deleterious insects, diseases and plants. The Department of Agriculture has the responsibility concerning exotic insects and diseases, and the Department of Natural Resources has authority over most forest health issues. Sudden Oak Death Syndrome first appeared in California and there is increasing concern that it will affect Douglas fir and oak in Washington.

Summary: The Department of Natural Resources, under the control of the Commissioner of Public Lands, directs the control or eradication of exotic insects and diseases, in cooperation with the Department of Agriculture. A forest practices permit is not required for this activity. A forest practices permit is not required when the Department of Agriculture operates under its authority to control exotic pests or when the Department of Natural Resources seeks to control exotic forest pests in a forest health emergency. The provisions for a forest health emergency are specified in the proposal. The departments will coordinate their responses to the problems of Sudden Oak Death Syndrome.

Votes on Final Passage:

Senate	49	0	
House	94	3	(House amended)
Senate	48	0	(Senate concurred)

Effective: July 27, 2003

SB 5156
C 205 L 03

Describing the duties of the combined fund drive.

By Senators Winsley, Fraser, Jacobsen and Haugen.

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

Background: The Washington Combined Fund Drive (CFD) is the organization within the Washington State government through which state employees and public agency retirees can make charitable donations to nonprofit organizations. The CFD is run by a governor-appointed committee responsible for setting policy and conducting the annual CFD campaign.

Summary: Powers and duties of the CFD are listed to include, but are not limited to, raising money for charity and reducing the disruption to government through multiple fund drives; establishing criteria for public or private nonprofit organizations to participate in the CFD; encouraging fund-raising activities; requesting the appointment of employees to lead workplace charitable giving campaigns; engaging in educational activities; accepting gifts and grants; and charging an administrative fee to oversee the program.

The CFD committee can be created by rule and is authorized to enter into contracts and partnerships with private institutions, persons, firms or corporations for the benefit of the CFD. Activities of the CFD must not result in direct commercial solicitation of state employees, or a benefit or advantage that would violate state ethics laws.

Votes on Final Passage:

Senate	47	0	
House	89	0	(House amended)
Senate	48	0	(Senate concurred)

Effective: July 27, 2003

SSB 5165
C 37 L 03

Regulating vehicular pursuit.

By Senate Committee on Judiciary (originally sponsored by Senators Kohl-Welles, Kline, McCaslin and Franklin).

Senate Committee on Judiciary
House Committee on Criminal Justice & Corrections

Background: National statistics reveal one third of police chases result in crashes and one out of every five result in injuries. The Washington State Patrol (WSP) has produced guidelines on police pursuit. Many local police departments base their policies on the WSP's. Policies differ from department to department, however, with some permitting pursuit at an officer's discretion and others tightly restricting pursuits.

In Washington, a general authority peace officer who possesses a certificate of basic law enforcement training or a certificate of equivalency may enforce the traffic and criminal laws of this state. Enforcement powers include fresh pursuit; any peace officer with authority to make an arrest may proceed in fresh pursuit of a person (1) who is reasonably believed to have committed a traffic or criminal law violation, or (2) for whom the officer holds a warrant of arrest. "Fresh pursuit" does not necessarily imply immediate pursuit, but pursuit without unreasonable delay.

Summary: The Washington State Criminal Justice Training Commission, the Washington State Patrol, the Washington Association of Sheriffs and Police Chiefs, and organizations representing local law enforcement officers must work in conjunction to develop a written model policy on vehicular pursuits. At a minimum, the policy must provide for: (a) supervisory control, if available, of the pursuit; (b) procedures for designating the primary pursuit vehicle and the number of vehicles permitted to participate in the pursuit; (c) procedures for coordinating operations with other jurisdictions; and (d) guidelines for determining when the interests of public safety and effective law enforcement justify a pursuit,

when a pursuit should not be initiated, and when a pursuit should be terminated.

By June 1, 2004, every state, county, and municipal law enforcement agency must adopt and implement a vehicular pursuit policy. Any policy adopted by local law enforcement must address the same minimum requirements addressed in the model policy.

By June 30, 2006, every new full-time law enforcement officer employed, after the effective date of this act, by a state, county, or municipal law enforcement agency must be trained on the vehicular pursuit policy. After July 1, 2006, every new full-time law enforcement officer must be trained on the vehicular pursuit policy within six months of employment. Law enforcement officers who are employed as of the effective date of this act are not required to receive new training on the vehicular pursuit policy.

Votes on Final Passage:

Senate	49	0
House	95	0

Effective: July 27, 2003

SB 5167
C 38 L 03

Modifying trust account provisions for sellers of travel.

By Senators Regala, Hewitt, Franklin, Winsley and Kohl-Welles.

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

Background: Sellers of travel are regulated by the Department of Licensing. To register with the department, a seller of travel must meet several qualifications. These qualifications include possession of a valid business license and proof of a trust account. If sellers of travel maintain a trust account, they must deposit all funds held for more than five days into this account.

Sellers of travel may choose to use a bond instead of a trust account to meet the department's registration qualifications. The amount of the bond is determined by rule by the department, and is based upon a registrant's gross business income during the previous year. The minimum bond is set at $10,000 and the maximum bond is set at $50,000. The bond may be used to compensate consumers if they are injured by a registrant's violations of the law.

Summary: The amount of the bond, to be determined by the department, is based upon the gross income of business that the registrant conducted for Washington State residents in the previous year.

Votes on Final Passage:

Senate	48	0
House	95	0

Effective: July 27, 2003

SB 5172
C 39 L 03

Correcting obsolete references to fish and wildlife statutes.

By Senators Esser, Kline, Johnson and Roach; by request of Office of the Code Reviser.

Senate Committee on Judiciary
House Committee on Judiciary

Background: The Statute Law Committee or the Code Reviser, acting with committee approval, makes recommendations and submits legislation to the Legislature concerning deficiencies, conflicts, and obsolete provisions in the statutes. The legislation is annotated to show the purposes, reasons, and history of the proposed changes.

Summary: This is a purely technical bill prepared by the Code Reviser to correct internal references in the Revised Code of Washington.

Votes on Final Passage:

Senate	48	0
House	95	0

Effective: July 27, 2003

SB 5176
C 316 L 03

Providing wildland fire fighting training.

By Senators Roach and Doumit.

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

Background: The State Fire Protection Policy Board consists of eight members, appointed by the Governor, charged with establishing a comprehensive state policy regarding fire protection services. As one aspect of that policy, the board is required to develop and adopt a plan with the goal of providing training to all fire fighters in the state. The plan is to include a reimbursement for fire protection districts and city fire departments of not less than $2 for every hour of fire fighter training. Reimbursement is limited to 150 hours of training for each fire fighter trained. Reimbursement is paid from the fire service training account, which consists of fees received by the State Patrol for training; grants and bequests accepted by the State Patrol; and 20 percent of all moneys received by the state on fire insurance premiums.

Summary: The State Fire Protection Policy Board must include wildland fire fighting training as part of the

board's plan to provide training to all fire fighters in the state. The reimbursement element of the training plan is increased to $3 per hour of training, and the limit on reimbursement is increased to 200 hours per fire fighter trained. Wildland fire training reimbursement is provided to fire protection districts and city fire departments that do not have an interior attack policy and to districts and departments that have and are fulfilling their interior attack policy.

Votes on Final Passage:

Senate	46	0	
House	98	0	(House amended)
Senate	46	0	(Senate concurred)

Effective: July 27, 2003

ESSB 5178
C 265 L 03

Creating the legislative international trade account.

By Senate Committee on Commerce & Trade (originally sponsored by Senators Hewitt, T. Sheldon, Rasmussen, Franklin, Shin, Rossi, Hale and B. Sheldon; by request of Lieutenant Governor).

Senate Committee on Commerce & Trade
House Committee on Trade & Economic Development
House Committee on Appropriations

Background: The Lieutenant Governor participates in trade missions and speaks with dignitaries from other countries regarding international trade issues. The Lieutenant Governor sometimes presents visiting dignitaries and trade mission contacts with hospitality gifts. Legislators and other participants on trade missions may also present hospitality gifts to hosts.

Current law provides that no state officer or employee may accept gifts in excess of $50, with some exceptions. These exceptions include unsolicited flowers and unsolicited items of nominal value such as pens and notepads.

Summary: The legislative international trade account is created in the custody of the State Treasurer. Only private funds may be deposited in the account. All funds received by the President of the Senate and the Secretary of State for international trade hosting, trade mission and international relations activities must be deposited in the account.

The Lieutenant Governor, state officers, and state employees may accept gifts in excess of $50 when those gifts are accepted and solicited for deposit in the legislative international trade account.

Expenditures from the account may only be used for international trade hosting, trade mission and international relations activities, excluding travel and lodging, in which the Lieutenant Governor, the Secretary of State, Senators and Representatives participate in an official capacity. Only the Lieutenant Governor may authorize expenditures from the account. If Senators and Representatives want to spend funds from the account, they must have their request approved by the Secretary of the Senate, the Chief Clerk of the House of Representatives, and the Lieutenant Governor.

Individuals or corporations are prohibited from donating more than $5,000 per year to the international trade account.

When soliciting donations solely for the legislative international trade account, the Lieutenant Governor, state officers, and state employees are presumed to not be in violation of ethics laws regarding solicitations and gifts.

The President of the Senate must provide an annual report of the international trade account activities to the House of Representatives and the Senate.

Votes on Final Passage:

Senate	49	0	
House	84	8	(House amended)
Senate	48	0	(Senate concurred)

Effective: July 27, 2003

SSB 5179
FULL VETO

Allowing the use of body-gripping traps in certain circumstances.

By Senate Committee on Parks, Fish & Wildlife (originally sponsored by Senators Oke, Mulliken, Rasmussen and T. Sheldon).

Senate Committee on Parks, Fish & Wildlife

Background: In November 2000 Washington voters approved Initiative 713. The initiative makes it a gross misdemeanor to use any body-gripping trap to capture any mammal or to use a leghold or neck snare trap to capture a mammal for recreation or commerce. It is also illegal to buy, sell, barter or otherwise exchange the fur of a mammal trapped with a body-gripping trap. Common rat and mouse traps are exempt. The director of the Department of Fish and Wildlife may grant permits to use certain traps in limited circumstances, including protection of public health and safety, and wildlife research.

It is consistent with the requirements of Article 2, Section 41, of the Washington State Constitution for the Legislature to repeal or modify a citizen's initiative after two years.

Summary: Use of body-gripping traps with teeth or serrated edges is not allowed. Use of other body-gripping traps requires a permit and must be done by a licensed trapper, in accordance with adopted rules. Permits can be "programmatic" (to prevent damage or injury), "conditional use" (to respond to emergencies), and "restricted use" (to protect endangered species and habitat) and can

be issued only for addressing an animal problem, a nuisance bird problem, falconry, furbearer management, and scientific research. These prohibitions and requirements do not apply to use by public or private property owners of traps commonly used to control moles, mice, rats, mountain beavers, gophers, and nutria. They also do not apply to all federal wildlife management agencies and their agents. Dealing in pelts of animals lawfully trapped according to the established requirements is not prohibited.

Furbearing mammals cannot be captured alive for sale or personal use. Lawfully trapped animals not intended for release must be humanely dispatched, or, if they are intended for release, be immediately released or taken to a rehabilitation center, if necessary. All trappers must report specified information annually, under penalty of license suspension. The Department of Fish and Wildlife must analyze the data and report to the Legislature. The department must also institute a furbearer management program.

Repeat violation results in revocation of a trapping license. A trapper whose license has been revoked must complete the commission's trapping education program, before another license can be issued. Licensed trappers under 15 years of age must be supervised. Licensed trappers active since 2000 are exempt from education requirements.

Votes on Final Passage:

Senate	37	12	
House	52	46	(House amended)
Senate	35	13	(Senate concurred)

VETO MESSAGE ON SB 5179-S

May 20, 2003

To the Honorable President and Members,
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval, Substitute Senate Bill No. 5179 entitled:

"AN ACT Relating to body-gripping traps;"

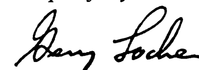
This bill would have provided that a trapping program is in the state's interest and that the sale of pelts is consistent with the Legislature's intent not to waste a wildlife resource. It would have allowed, if permitted by the director of the Department of Fish and Wildlife (DFW), use of a body-gripping trap to address animal problems and fur-bearer management needs.

Early this session, I supported legislation that would have addressed the specific problems associated with Initiative 713. This legislation would have allowed the use of traps on moles, gophers and mountain beavers, and provided additional protections for livestock. At that time, I also indicated my opposition to legislation that would repeal the core principles underlying the initiative. Whenever possible, improvements to address unintended consequences of an initiative should be pursued before consideration of a repeal. Because this bill effectively repeals the initiative, even though an alternative legislative solution exists to address the problems of the initiative, I have vetoed the bill in its entirety.

We need to put this issue behind us by looking for ways we can creatively implement solutions, rather than perpetuate problems. With this message, I am requesting members of the Fish and Wildlife Commission to closely oversee DFW's implementation of Initiative 713, consistent with its spirit and intent. Specifically, I would like the Commission to recommend changes to help protect livestock and reduce damage to public property, and to conduct an educational outreach program around the state that explains the availability of the special permit program allowed under Initiative 713. In the meantime, I also would expect that given current financial constraints, DFW would use its limited enforcement resources on higher priorities rather than against homeowners, businesses and the timber industry that have trapped for moles, gophers and mountain beavers. I would like the Commission Chair to provide me with a report in person by December 1, 2003.

For these reasons, I have vetoed Substitute Senate Bill No. 5179 in its entirety.

Respectfully submitted,



Gary Locke
Governor

SSB 5189
C 160 L 03

Waiving tuition and fees for veterans of the Korean conflict.

By Senate Committee on Higher Education (originally sponsored by Senators Benton, Swecker, Kohl-Welles, Shin, Stevens, Oke, Roach and Winsley).

Senate Committee on Higher Education
House Committee on Higher Education

Background: The governing boards of the state's public higher education institutions may exempt veterans of the Vietnam conflict from any increase in student tuition or fees. The veterans shall not be required to pay more than the total amount of tuition and fees paid by students on October 1, 1977. To qualify for the exemption, the veteran must be a resident student and must have served in Southeast Asia during the time period between August 5, 1964, and May 7, 1975. Similar tuition exemptions exist for veterans who served in the Persian Gulf combat zone during 1991.

Summary: The governing boards of the state's public higher education institutions may waive all or a portion of tuition and services and activities fees for veterans of the Korean Conflict. In order to receive the waiver, veterans must have served on active duty in the military or naval forces of the United States any time between June 27, 1950, and January 31, 1955. Institutions are required to charge a registration fee of a least $5.

Votes on Final Passage:

Senate	47	0
House	98	0

Effective: July 27, 2003

SSB 5190

C 358 L 03

Strengthening laws against fuel tax evasion.

By Senate Committee on Highways & Transportation (originally sponsored by Senators Jacobsen, Horn, Haugen and Franklin).

Senate Committee on Highways & Transportation
House Committee on Transportation

Background: Unlicensed importers/manufacturers of fuel. Under current law, unlicensed importers of motor vehicle fuel are subject to a civil penalty of 100 percent of the tax due, plus interest. In addition to the penalties, unlicensed importers and manufacturers of motor vehicle fuel and special fuel may be subject to a criminal penalty of a class C felony.

Tax-free card lock purchases. Card lock facilities are authorized to sell tax-free diesel fuel to farmers, logging companies and construction companies licensed by the Department of Licensing to purchase clear, tax-free diesel fuel for non-highway equipment or for non-highway use. The fuel may be purchased by inserting a card into the pump which identifies the purchase as being exempt of the fuel tax. Fraud may occur when someone purchases this untaxed fuel and uses it for a purpose that is not tax exempt. Currently, the state has a dyed diesel program in place where people may purchase dyed diesel for tax exempt purposes, and which may be detected by law enforcement should it be used for taxable purposes.

Penalties for infractions. Dyed diesel can be purchased by anyone for use in non-highway equipment unless otherwise exempt by law. Currently, dyed diesel infractions are punishable as a felony in this state.

Summary: Unlicensed importers/manufacturers of fuel. The State Patrol may seize any fuel imported into the state or manufactured in the state by a person that is not licensed, and may seize any conveyances in which the fuel is transported. The State Patrol and/or the Department of Licensing may enter into contracts for the transportation, handling, storage, and sale of fuel seized and may deduct expenses from the proceeds. Seized conveyances are sold at public auction. Proceeds from the sales are deposited into the motor vehicle account.

Tax-free card lock purchases. The statute allowing for the sale of untaxed clear diesel at card lock facilities to farmers, logging companies and construction companies is repealed.

Penalties for infractions. The penalty for a single event of using dyed diesel for a taxable purpose is reduced from a felony to a gross misdemeanor. Multiple dyed diesel infractions remain a felony.

Votes on Final Passage:

Senate	45	0	
House	96	0	(House amended)
Senate			(Senate refused to concur)
House	53	44	(House receded)

Effective: July 27, 2003

SSB 5204

C 317 L 03

Providing opportunities for wildlife viewing.

By Senate Committee on Parks, Fish & Wildlife (originally sponsored by Senators Oke, Doumit, T. Sheldon, Jacobsen, Swecker, Kohl-Welles and Esser; by request of Department of Fish and Wildlife).

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

Background: Wildlife viewing is rated as the number one outdoor activity in the United States. According to the U.S. Fish and Wildlife Service, almost $1 billion was spent on wildlife viewing in Washington State in 2001.

A vehicle use permit is required to use Department of Fish and Wildlife lands and access areas. The permit may be purchased separately for $10, or is provided at no charge with any hunting and fishing license. A person may also choose to make contributions to the Department of Fish and Wildlife for the sound stewardship of fish and wildlife. Contributors are known as "conservation patrons" and receive the vehicle use permit at no charge.

Summary: The Department of Fish and Wildlife may sell watchable wildlife decals at a cost determined by the Fish and Wildlife Commission. Proceeds from the sale of the decal are used to support watchable wildlife activities of the department, including building infrastructure to serve wildlife viewers and assisting local communities in developing events, tours, trails, and brochures.

A person may contribute more than the cost of the watchable wildlife decal. A vehicle use permit is issued with every watchable wildlife decal at no charge.

Authority for the department to accept general contributions from conservation patrons is deleted.

Votes on Final Passage:

Senate	48	0
House	91	4

Effective: July 27, 2003

ESB 5210
C 211 L 03

Modifying electrician certification provisions.

By Senators Honeyford, Rasmussen, Roach, Mulliken, T. Sheldon, Parlette and Stevens.

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

Background: In 2002, the Legislature enacted ESSB 6630. This bill referred to several new electrical specialties, including a new restricted nonresidential maintenance specialty. Some electrical specialties require 2,000 hours of experience, and some require 4,000 hours. The restricted nonresidential maintenance specialty is currently designated as a 4,000 hour specialty.

Summary: The restricted nonresidential maintenance specialty is designated as a 2,000 hour specialty. The restricted nonresidential maintenance specialty is limited to a maximum of 277 volts and 20 amperes for lighting branch circuits and/or a maximum of 250 volts and 60 amperes for other circuits, but excludes the replacement or repair of circuit breakers.

Votes on Final Passage:

Senate	49	0
House	97	0

Effective: July 27, 2003

SB 5211
C 203 L 03

Clarifying that certain entities are not collection agencies.

By Senators Kohl-Welles, Winsley, Fairley, Prentice, Benton and Keiser.

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

Background: The term "collection agency" includes any person engaged in collecting claims "owed or due another person." Property management companies sometimes collect homeowners and condominium association dues for their clients.

Certain businesses are exempt from the definition of collection agency if their collection activities are directly related to the operation of a business other than that of a collection agency. Property management companies are not currently listed under this exemption.

Summary: Property management companies collecting assessments, charges or fines on behalf of condominium unit owners' associations, associations of apartment owners, or homeowners' associations are exempt from the definition of collection agency.

Votes on Final Passage:

Senate	49	0
House	95	0

Effective: July 27, 2003

SSB 5218
C 162 L 03

Requiring timely mailing of ballots.

By Senate Committee on Government Operations & Elections (originally sponsored by Senators Roach, Kastama, Schmidt, Fairley, Stevens, Reardon, Horn, Benton, Keiser, Johnson, Kohl-Welles, Kline and Esser; by request of Secretary of State).

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

Background: There are two types of voting where the voter mails his or her ballot back to the county auditor for processing and tallying. The first type is absentee voting. Increasingly, voters are choosing to cast their ballots using absentee ballots. A voter may obtain an absentee ballot for a single primary or election or may become an ongoing absentee voter and automatically obtain an absentee ballot for each subsequent primary or election. County auditors are required to have sufficient absentee ballots ready to mail to absentee voters at least 20 days before any primary, general election, or special election.

The second type of voting by mail is called election by mail ballot. A county auditor may designate any precinct having fewer than 200 active registered voters at the time of closing of voter registration as a mail ballot precinct. The county auditor is required to mail or deliver a ballot and an envelope to each active registered voter as soon as ballots are available.

Some special elections may be conducted by mail ballot if doing so is approved by the county auditor. The county auditor is required to make a mail ballot available to each registered voter 20 days before the date of the election.

Summary: Enough absentee ballots must be available for absentee voters at least 20 days before any primary or election. If a request for an absentee ballot has been received at least 19 days before the primary or election, the county auditor must mail the absentee ballot at least 18 days before the primary or election. For requests received after the 19th day before the election, the auditor must make every effort to mail the absentee ballot within one business day and shall mail the ballot within two business days.

A procedure is established for the county auditor to certify his or her compliance with these requirements to the Secretary of State.

For mail ballot elections, the auditor must mail all active voters a ballot at least 18 days before the primary or election. For inactive voters, the mailing must occur at least 19 days before the primary or election.

In all cases, the county auditor must make every effort to mail ballots to overseas and service voters earlier than 18 days before the primary or election.

Votes on Final Passage:

Senate	46	3	
House	95	0	(House amended)
Senate	42	0	(Senate concurred)

Effective: July 27, 2003

SSB 5221
C 111 L 03

Reorganizing election laws.

By Senate Committee on Government Operations & Elections (originally sponsored by Senators Roach, Kastama, Fairley, Stevens, Horn and Benton; by request of Secretary of State).

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

Background: Title 29 RCW contains the laws establishing procedures for the conduct of elections. The title applies to the Secretary of State and to the county auditors.

Summary: Title 29 is reorganized and streamlined. The term "special ballot" is changed to "provisional ballot." A "precinct" is established by a county but not a city or town. A "registered voter" is a person who has completed the registration process established in statute, rather than a person who possesses all of the qualifications required by statute. Several sections are removed, including the language enabling cities, towns, and special districts to request a special election 45 days before an election; the language apportioning registration expenses for precincts that cross city limits; and the language limiting precincts to 250 active registered voters. The procedure of simply identifying and sealing unused ballots once the polls are closed is changed to rendering them unusable, and securing them in a container to be returned to the county auditor.

For purposes of recall elections, the definition of an elected official's "violation of the oath of office" is changed from "wilful (sic) neglect or failure" to perform a duty to a "neglect or knowing failure" to perform a duty.

It is no longer a misdemeanor for a person to show his or her ballot to another person after it is marked, or to mark a ballot in a way that will reveal his or her identity.

The statute requiring candidates to sign an affidavit swearing that they are not a subversive person is repealed because it was declared unconstitutional. Statutes imposing term limits on state and federal office holders are repealed because they were declared unconstitutional in 1998. Numerous statutes are repealed because they are no longer used in election law or are redundant.

Votes on Final Passage:

Senate	48	0	
House	97	0	(House amended)
Senate	47	0	(Senate concurred)

Effective: July 1, 2004

ESSB 5223
C 283 L 03

Authorizing mental health advance directives.

By Senate Committee on Children & Family Services & Corrections (originally sponsored by Senators Keiser, Parlette, Hargrove, Deccio and Kline).

Senate Committee on Children & Family Services & Corrections
House Committee on Judiciary
House Committee on Appropriations

Background: There has been concern for some time that persons with mental health care needs have no means to express their wishes for their care during the times when their illness makes them unable to communicate their considered wishes or make medical decisions. In some cases, the Involuntary Treatment Act can serve to provide care at these times. In most cases, however, the person does not reach the high standard for involuntary treatment and may be unable to access treatment due to his or her inability to give informed consent. A number of other states permit the use of a mental health "advance directive" that the person prepares at a time when he or she has the capacity to express his or her instructions and preferences. Though states vary in the specifics, this document provides the person's instructions and preferences in much the same way that "living will" provisions guide treatment providers at a time when the seriously ill person cannot express those wishes.

Summary: Any person with capacity may create a "mental health advance directive" expressing his or her preferences and instructions about mental health treatment. The directive must be respected by medical and mental health professionals, guardians, agents, attorneys-in-fact, and other surrogate decision makers acting on behalf of the document's creator.

A directive must be in writing, dated, signed and witnessed by two people and must substantially follow the statutory form. There are limitations on who may witness a directive or serve as an agent that are focused on excluding persons with real or potential conflicts of

interest. A directive may include one or more of the following provisions:

- preferences and instructions for mental health treatment;
- consent, or refusal to consent to specific types of treatment or admission and retention for inpatient treatment;
- descriptions of situations that may cause a mental health crisis;
- suggestions for alternative responses that supplement or are in lieu of direct mental health treatment;
- appointment of an agent to make mental health treatment decisions; and
- the person's nomination of a guardian or limited guardian if a court commences guardianship proceedings.

A person is presumed to have capacity to create or revoke a directive. A person with capacity is a person who can give informed consent to medical treatment. The person who made the directive (the principal), his or her agent, a health care provider or a professional person may request a determination of the principal's capacity. The determination may be made by two health care providers, or one mental health professional and one health care provider, or if the principal or his or her agent request a court determination, a superior court. Where the determination is made by the designated treatment providers, one of the providers must be a psychiatrist, psychologist, or advanced registered psychiatric nurse practitioner.

A principal may revoke a directive in writing at any time he or she has capacity. When executing an advance directive, the principal must choose whether or not to be able to revoke the directive at times when he or she is incapacitated. If a principal chooses to limit himself or herself to revocation only when he or she has capacity, his or her revocation is valid unless he or she is determined to be incapacitated at the time. An initial determination of capacity must occur within 48 hours of the request. When an incapacitated person requests a redetermination, the redetermination must occur within 72 hours if the person is in inpatient treatment or within five days if the person is in outpatient treatment. If the determination is not made within the time limits, the principal is presumed to have capacity.

A principal may consent to inpatient admission for a maximum of 14 days. If a principal who has consented to inpatient treatment in his or her advance directive objects to treatment at the time of admission, the refusal is addressed in one of three manners:

- The principal's choice at the time supersedes the directive and provisions of the directive are deemed waived unless the principal is determined to be incapacitated.
- If the principal is incapacitated and chose to be able to revoke the directive during periods of incapacity, the consent to admission is revoked and the principal will not be admitted unless he or she meets the criteria for involuntary treatment.
- If the principal is incapacitated and chose not to be able to revoke the directive during periods of incapacity, the principal's instruction in his or her directive are followed over his or her attempted revocation and he or she may be admitted if the admitting physician also obtains the agent's consent, makes a written determination that the principal needs inpatient evaluation or treatment and it cannot be accomplished in a less restrictive setting, and documents his or her findings and treatment recommendations in the principal's medical record. Because this is a voluntary admission, however, a principal who takes action to leave beyond a stated objection must be discharged or not admitted unless he or she meets the criteria to be detained under the existing Involuntary Treatment Act.

A treatment provider acting under a directive must follow the directive unless to do so would violate the law or the accepted standard of care, the requested treatment is not available, or would endanger any person's life or health. There are further exceptions for civilly committed and incarcerated persons. Provisions in the directives of civilly committed persons that conflict with the purpose of the commitment or court orders related to the commitment are invalid during the commitment. Remaining provisions are advisory but the treatment provider is encouraged to follow them. Provisions in the directive of an incarcerated person that are contrary to reasonable penological objectives or to the outcome of an administrative hearing regarding involuntary medications are invalid during periods of incarceration.

If a treatment provider acting under a directive is unable to follow the directive, the provider must note the deviation and the reason in the principal's medical record. At the time of receiving a directive, if a provider is unable or unwilling to follow the directive, he or she must notify the principal or his or her agent and note the reason in the principal's medical record.

A provider is not subject to civil liability or professional misconduct sanctions when the provider, in good faith and without negligence:

- treats without actual knowledge of an advance directive or its revocation;
- makes a determination of capacity or incapacity;
- treats according to an advance directive that is later found to be invalid;
- does not treat according to the advance directive for a reason permitted by statute; or
- treats according to the directive.

A person may not be compelled to execute or refrain from executing a directive as a criterion for insurance coverage, receiving mental health treatment, admission or discharge from a facility. No person or health care

facility may use or threaten abuse, neglect, financial exploitation, or abandonment to carry out a directive. The principal may contest the validity of his or her directive. Fraudulent creation or revocation of a mental health advance directive is a class C felony ranked as a level I offense.

Where a person has a guardian, the guardianship controls the application of a previously executed directive. Some existing limitations on agents to consent to treatment for a principal are removed when the principal has consented to the treatment in his or her directive. Where a principal has executed more than one mental health advance directive, the most recent directive is construed to be the person's preferences and instructions unless provided otherwise in the directive. Where there is more than one kind of directive and they are inconsistent, the most recent directive controls as to the inconsistent or conflicting provisions.

Votes on Final Passage:

Senate	48	0
House	92	1

Effective: July 27, 2003
July 1, 2004 (Section 33)

SB 5224
C 40 L 03

Adding a rental housing owner to the affordable housing advisory board.

By Senators Benton, Prentice, Winsley, Zarelli, Johnson, T. Sheldon, Kohl-Welles, Hale, Roach and Esser.

Senate Committee on Financial Services, Insurance & Housing
House Committee on Trade & Economic Development

Background: Under the Washington Housing Policy Act, the Department of Community, Trade, and Economic Development (CTED) has created the Affordable Housing Advisory Board, composed of 21 members, 18 of whom are appointed by the Governor.

The board serves as CTED's principal advisory board on housing and housing-related issues.

Summary: The Affordable Housing Board is expanded by adding one representative of for-profit rental housing owners. This representative is Governor-appointed.

Votes on Final Passage:

Senate	48	1
House	95	0

Effective: July 27, 2003

SSB 5226
C 142 L 03

Concerning optometric care and practice.

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Hale, Deccio, Thibaudeau, Keiser, Oke and Franklin).

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

Background: The practice of optometry involves the examination of the human eye and the human vision system. Optometrists may test patients' visual acuity, prescribe eyeglasses and contact lenses, prescribe visual therapy, and adapt prosthetic eyes.

Upon meeting additional requirements, optometrists may also use or prescribe topically applied drugs for diagnostic or therapeutic purposes. They may apply topical drugs for diagnostic purposes upon completing 60 hours of didactic and clinical instruction in general and ocular pharmacology and receiving certification from an accredited institute of higher education. Optometrists may prescribe topical drugs for therapeutic purposes upon completing the requirements for diagnostic drugs plus an additional 75 hours of instruction.

Optometrists are licensed by the Optometry Board. Optometrists are also regulated by the Optometry Board under the Uniform Disciplinary Act. The board is responsible for the issuance and denial of provider licenses, the investigation of acts of unprofessional conduct, and the discipline of licensees. The board has also adopted a drug formulary of topically applied diagnostic and therapeutic drugs that optometrists may use upon meeting the additional training requirements.

Summary: The range of drugs that an optometrist may use or prescribe is expanded beyond topical drugs to include some oral drugs for diagnostic or therapeutic purposes, as well as injectable epinephrine for treatment of anaphylactic shock.

To use or prescribe oral drugs, an optometrists must meet the existing requirements for topically applied drugs, complete an additional 16 hours of didactic and eight hours of supervised clinical instruction, and receive certification from an accredited institute of higher education.

To use injectable epinephrine, an optometrist must meet the existing requirements for topically applied drugs, complete an additional four hours of didactic and supervised clinical instruction, and receive certification from an accredited institute of higher education.

The Optometry Board must consult with and have the approval of the Board of Pharmacy to create a list of Schedule III through V controlled substances that optometrists may prescribe or administer. The Optometry Board must also consult with and have the approval of the Board of Pharmacy to establish rules to specify the

proper dosages and forms of the drugs that optometrists may prescribe or administer.

Optometrists may not prescribe a controlled substance for more than seven days to any patient for treating a single episode or condition or for pain. If treatment exceeding seven days is indicated, the patient must be referred to a licensed physician.

Optometrists may only prescribe or administer drugs that treat diseases or conditions of the eye that are within an optometrist's scope of practice.

Optometrists may not perform ophthalmic surgery nor prescribe oral corticosteroids.

Technical corrections are made to other statutory sections to reflect these changes.

Votes on Final Passage:

Senate	48	0
House	95	0

Effective: July 27, 2003

ESSB 5229
C 41 L 03

Separating training for two and three-wheeled motorcycles.

By Senate Committee on Highways & Transportation (originally sponsored by Senators Haugen, Horn, B. Sheldon, Zarelli, Poulsen, Jacobsen, Mulliken, Hargrove, Roach, Rossi, Stevens, T. Sheldon and West).

Senate Committee on Highways & Transportation
House Committee on Transportation

Background: The motorcycle skills education program is a voluntary program operated by the Department of Licensing (DOL). DOL contracts with certified instructors who must teach a minimum of three classes per year to maintain their teaching eligibility. The program consists of two classes: one for advanced riders and one for novice riders. The cost of either class for riders under age 18 is no more than $50. The cost of either class for riders over age 18 and military personnel of any age is no more than $100. The classes do not include instruction on the operation of three-wheeled motorcycles.

Currently, DOL offers a two-wheeled motorcycle endorsement and the endorsement examination does not test for those skills and maneuvers unique to three-wheeled motorcycles.

Summary: A three-wheeled motorcycle special endorsement is established. Persons operating a three-wheeled motorcycle must obtain the special endorsement.

The examination for two-wheeled and three-wheeled motorcycle endorsements must be separate and must test the skills and maneuvers necessary to operate each type of motorcycle.

The department must establish separate novice and advanced motorcycle skills education courses for two-wheeled and three-wheeled motorcycles.

To maintain their teaching eligibility, three-wheeled motorcycle instructors must conduct at least one class per year.

The definition of a motorcycle, under the motorcycle skills education program, is modified to include motorized tricycles and side car equipped motorcycles.

This act is named the Monty Lish Memorial Act.

Votes on Final Passage:

Senate	48	1
House	73	18

Effective: January 1, 2004

SSB 5236
C 158 L 03

Offering health care benefit plans to school district employees.

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Parlette, Thibaudeau, Winsley, Keiser, Carlson, Honeyford, McAuliffe, Mulliken, Kohl-Welles, Hale, Roach, Esser, Brandland and Eide).

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

Background: School districts and educational service districts have the option of purchasing insurance benefits from the Health Care Authority (HCA). Prior to 2002, the HCA charged participating districts under a tiered rate structure, which is based on family size and plan choice. In 2002 the Legislature passed SHB 2536, which directed the HCA to charge participating districts the same composite rate that state agencies are charged. In addition, SHB 2536 required that participating district employees meet the same eligibility criteria and pay the same co-premiums as state employees. Under eligibility criteria established by the Public Employees' Benefits Board, employees working half-time or more are eligible for full benefits coverage in HCA plans. The intent of the bill was to make it more attractive for school districts and their employees to purchase insurance benefits through the HCA.

The per employee monthly allocation for district employees provided by the state in the current year is $25 less than the allocation provided for state employees. Under SHB 2536, the difference between the state employee rate and the district rate must be paid by participating districts, not by employees.

The state provides the full benefit funding rate for all state employees working half-time or more, but provides no funding for state employees working less than half-time. The state allocates district employee health benefit

funding based on formula-driven full-time equivalent (FTE) staff. 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 working at least half-time are provided the same benefit as a full-time employee.

After enactment of SHB 2536, only four new groups of district employees, totaling 81 employees, began to purchase insurance benefits from the HCA. The requirement that districts pay the monthly $25 per employee difference between the state allocation to districts and the state allocation to state agencies, plus the requirement that districts provide a full-time benefit for those working half-time or more, made participation in the HCA fiscally difficult for some districts.

Summary: School district and educational service district employees participating in HCA plans must pay at least the same employee premiums as state employees pay. The total amount collected from a participating district must be the same as the composite rate collected by the HCA from state agencies, plus an amount equal to the employee premiums charged to state employees. The portion of the total paid by the district and the portion paid by district employees are determined at the local level. Only those employees working half-time or more are eligible for participation and coverage.

Votes on Final Passage:

Senate	49	0
House	93	0

Effective: July 27, 2003

SSB 5237
C 172 L 03

Regulating the catheterization of students.

By Senate Committee on Education (originally sponsored by Senators Deccio, Thibaudeau, Parlette, Keiser, Mulliken, Kohl-Welles, Stevens, Hale and Eide).

Senate Committee on Education
House Committee on Health Care

Background: Federal and state laws require the state to ensure that appropriate special education and related services are provided to children with disabilities who are eligible to receive them. A related service is a supportive service that is necessary to enable the child with the disability to benefit from the special education. In 1984, the U.S. Supreme Court found that bladder catheterizations are a related service. Under state law, school districts and private schools must adopt policies addressing the provision of bladder catheterizations. School employees who are not licensed nurses, but who provide catheterizations for students, must receive training from a physician or registered nurse and that training must be documented in the employee's file.

Catheterization consists of inserting a flexible tube through the urethra into the bladder to empty the bladder.

Summary: Public school employees, who are not licensed nurses and who have not agreed in writing to perform catheterizations as part of their job description, may file a written letter of refusal to perform catheterizations for students. The letter of refusal may not constitute grounds for dismissal or other adverse action that would affect the employee's contract status.

Public school districts and private schools must document any training provided to employees that perform catheterizations. Public and private school employees who perform health services must have a job description that lists all the health services that the employee may be required to perform.

Votes on Final Passage:

Senate	47	0	
House	95	0	(House amended)
Senate	45	0	(Senate concurred)

Effective: July 27, 2003

SSB 5240
FULL VETO

Including a classified employee on the Washington professional educator standards board.

By Senate Committee on Education (originally sponsored by Senators Zarelli, McAuliffe, Schmidt, Eide, Benton, Carlson, Keiser, Mulliken, Kohl-Welles, Stevens, Winsley, Hale, Roach and Poulsen).

Senate Committee on Education
House Committee on Education

Background: In 2002, the Legislature created the Professional Educator Standards Board (PESB) to advise the Superintendent of Public Instruction (SPI) and the State Board of Education on issues related to educators. The PESB is composed of 19 voting members, appointed by the Governor: seven public school teachers, one private school teacher, three representatives of educator preparation programs at institutions of higher education, four school administrators, two educational staff associates, one parent, and one member of the public. Except for the parent and public member, each voting member must be actively employed in the position and have at least three years of experience in Washington schools. Additionally, the SPI is a nonvoting member of the PESB.

Summary: A classified employee, who assists in public school student instruction, is added as a voting member to the PESB, replacing the "public" member. The classi-

fied employee must meet the same criteria as the other members, i.e., actively employed in the position and having at least three years of experience.

Votes on Final Passage:

Senate	48	0
House	96	0

Votes on Veto Override:

Senate	49	0

VETO MESSAGE ON SB 5240-S

April 17, 2003

To the Honorable President and Members,
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval, Substitute Senate Bill No. 5240 entitled:

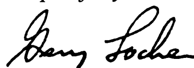
"AN ACT Relating to including a classified employee on the Washington professional educator standards board;"

This bill alters the composition of the Professional Educator Standards Board by eliminating the designated public member and substituting a classified school employee who assists in public school student instruction.

I strongly support the addition of the classified school employee to the Board. However, the bill would have the effect of removing the voice of a representative of the public. In our state efforts to strengthen teacher accountability, it is important to provide an avenue for direct public communication and participation. Rather than eliminating this position, my preference is to sign a bill that maintains the current membership of the Board and adds a classified school employee.

For these reasons I have vetoed Substitute Senate Bill No. 5240 in its entirety.

Respectfully submitted,



Gary Locke
Governor

SB 5244
C 42 L 03

Authorizing additional powers for unclassified cities.

By Senator Hewitt.

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

Background: An unclassified city is a city created by special charter prior to the adoption of the state Constitution that has not since reincorporated under any general statute. Current law grants unclassified cities certain enumerated powers, in addition to the powers granted by their charter. The only unclassified city existing in the state today is Waitsburg, which was created by territorial charter in 1885. Waitsburg's charter calls for the annual election of city officials.

Summary: The legislative body of an unclassified city can adopt, by resolution, any powers granted to code cities, including the power to define the functions and duties of city officers and employees.

The legislative body of an unclassified city can also adopt a resolution implementing a four-year election cycle for city officials, with elections held biennially in odd-numbered years. At the first election under the bill, the terms of the city officers shall be staggered, with a majority of council members elected to four-year terms, and the remaining council members and the treasurer elected to two-year terms.

Votes on Final Passage:

Senate	49	0
House	95	0

Effective: July 27, 2003

ESB 5245
C 351 L 03

Involving legislators in transportation planning.

By Senators Horn, Haugen, Mulliken, Finkbeiner, Oke, Swecker, Esser, Prentice, Benton and Kohl-Welles.

Senate Committee on Highways & Transportation
House Committee on Transportation

Background: There are 14 regional transportation planning organizations (RTPOs) in Washington State. Each RTPO has a policy board that provides direction on the implementation of their six-year transportation improvement program (TIP) and their regional transportation plan. An RTPO policy board is required to include members from cities, counties, port districts, transit districts, major employers and the Department of Transportation.

The six-year TIP proposes regionally significant transportation projects and a financial plan that demonstrates how the program is to be funded. The six-year TIP is updated at least every two years, but can be amended during the interim.

The regional transportation planning process establishes standards for a regional transportation plan, coordination between RTPOs, and, in conjunction with state planning efforts, identifies and plans improvements that are important to moving people and goods on a regional and statewide basis.

An RTPO that borders another state may have voting members that reside in the adjacent state. The cross-boundary members are allowed to promote transportation planning coordination across state lines.

Summary: RTPO board membership is modified. Any member of the House of Representatives or the Senate whose districts are wholly, or partly, within the boundaries of the regional transportation planning organization are considered ex-officio, nonvoting board members of the regional transportation planning organization. This does not preclude legislators from becoming full-time, voting board members.

A requirement is added that when the members of the Regional Transportation Planning Organization take action on matters that solely affect Washington State, there must be a majority vote of the Washington residents serving as members of the RTPO before the matter may be adopted.

Votes on Final Passage:

Senate	45	4	
House	89	3	(House amended)
Senate	44	2	(Senate concurred)

Effective: July 27, 2003

ESSB 5247
C 350 L 03

Authorizing alternative local option fuel taxes.

By Senate Committee on Highways & Transportation (originally sponsored by Senators Horn, Haugen, Esser, Jacobsen, Kastama, Prentice, Oke, Swecker and Schmidt).

Senate Committee on Highways & Transportation
House Committee on Transportation

Background: Under current law, counties have the authority to levy a local fuel tax at a rate equal to 10 percent of the state fuel tax rate. The county fuel tax is subject to a vote of the people and is distributed to the county, and the cities within the county, by a formula based on population.

In 2002, the Legislature authorized the creation of Regional Transportation Investment Districts for certain counties. A Regional Transportation Investment District can impose regional taxes to raise revenue for construction projects on highways of statewide significance within the district, based on a plan developed by the district and sent to a vote of the people.

Summary: A county or a Regional Transportation Investment District may levy a local fuel tax at a rate equal to 10 percent of the state fuel tax rate. The fuel tax is subject to a vote of the people and is in lieu of the local fuel tax already authorized in statute. The revenues from the tax must be spent in accordance to a Regional Transportation Investment District plan and must only be spent for "highway purposes" as defined in the 18th Amendment of the Constitution.

Administration and collection of local option fuel taxes is moved from the Department of Licensing to the Department of Revenue.

Votes on Final Passage:

Senate	46	3
House	98	0

Effective: July 27, 2003

SSB 5248
C 363 L 03

Achieving transportation workforce efficiencies.

By Senate Committee on Highways & Transportation (originally sponsored by Senators Horn, Haugen, Prentice, Oke and Stevens).

Senate Committee on Highways & Transportation
House Committee on Transportation

Background: The Legislature and the Governor formed the Blue Ribbon Commission on Transportation (BRCT) in 1998 to assess the local, regional and state transportation system; ensure that current and future funding is spent wisely; make the system more accountable and predictable; and prepare a 20-year plan for funding and investing in the transportation system.

The commission made 18 recommendations to the Governor and the Legislature. Specific recommendations included adopting transportation benchmarks; investing in maintenance, preservation, and improvements of the entire transportation system so that benchmarks can be achieved; achieving construction and project delivery efficiencies; and using the private sector to deliver projects and transportation services.

The 2002 Legislature passed into law ESHB 2304 (C 5 L 02), an omnibus transportation efficiency act that addressed several Blue Ribbon recommendations. The workforce efficiency and local government reporting sections of ESHB were tied to Referendum 51 and thus became null and void upon its failure. SB 5248 contains only the sections of ESHB 2304 that became null and void.

Summary: Part I: Alternative Delivery Procedures for Construction Services: The Department of Transportation (DOT) must develop an employee retention program, including a financial incentive program to recruit and retain employees. For augmentation purposes only, DOT may acquire construction-engineering services from private firms.

Part II: Apprenticeship and Adjustments to Prevailing Wage Provisions: The Apprenticeship Council must work with DOT to establish apprenticeship opportunities in transportation. The Department of Transportation must establish a human resources skills bank. The Department of Labor & Industries (L&I) must conduct an assessment of prevailing wages currently paid for transportation labor. One hundred thousand dollars of intent and affidavit fees is dedicated to L&I's prevailing wage survey process.

Part III: Transportation Planning and Efficiency: Counties, Public Transportation Benefit Areas, Regional Transit Authorities and municipalities must provide to the Transportation Commission a lowest lifecycle cost preservation management plan/assets inventory. Cities must provide the Transportation Commission a preserva-

tion rating on their arterial networks. The County Road Administration Board (CRAB) must develop county maintenance standards. CRAB reviews counties' maintenance plans.

The entire act is null and void if new transportation revenues do not become law by January 1, 2004.

Votes on Final Passage:

Senate	49	0	
House	53	43	(House amended)
Senate	42	5	(Senate concurred)

Effective: July 27, 2003

SSB 5251
C 43 L 03

Modifying foreign judgment provisions.

By Senate Committee on Judiciary (originally sponsored by Senators Brandland, Thibaudeau, Shin and Kline).

Senate Committee on Judiciary
House Committee on Judiciary

Background: A judgment is an official and authentic decision of a court of justice on the respective rights and claims of the parties to an action. A judgment is filed after it is signed in court and the clerk enters it in the execution docket. The first page of a judgment, which provides for the payment of money, must include, in addition to other information, the name of the judgment creditor and his or her attorney, the judgment debtor, the amount of the judgment, the interest owed, and the total of costs and attorney fees.

A foreign judgment is a judgment from a jurisdiction outside the state of Washington. It may be filed in superior or district court. There is concern that a Washington court in which a foreign judgment is filed may not know how long the judgment is enforceable under Washington law if the filing and expiration dates of the foreign judgment are not provided.

Summary: The first page of a foreign judgment must include the filing and expiration dates of the judgment under the laws of the original jurisdiction. At the time of filing the foreign judgment in Washington, the judgment creditor or his or her attorney is required to make and file with the clerk of the court an affidavit stating the filing and expiration date of the judgment in the originating jurisdiction. This affidavit is not to be interpreted to extend the expiration date of a foreign judgment beyond the expiration date under the laws of the jurisdiction where the judgment originated.

Votes on Final Passage:

Senate	46	0
House	95	0

Effective: July 27, 2003

ESB 5256
C 165 L 03

Revising rule-making procedures.

By Senators Roach, Doumit, Hale, Kastama, Mulliken, T. Sheldon, Haugen, Hewitt, Stevens, Zarelli, Parlette, Horn, Rossi and Johnson.

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

Background: When an agency first proposes to adopt a rule, it must determine whether the proposed rule is a significant legislative rule that requires the significant legislative rule-making analysis.

Significant legislative rules are rules that do one of the following: adopt substantive provisions of law, the violation of which results in penalties or sanctions; affect the issuance, suspension, or revocation of a license or permit; or make significant changes to regulatory programs.

The significant legislative rules of certain agencies are subject to the additional procedural requirement in their adoption called the significant legislative rule-making analysis. One of these additional analyses is whether the benefits of the rule are greater than the costs.

Summary: For rules subject to the significant legislative rules process, the notice of proposed rule-making must contain a statement that a preliminary cost-benefit analysis is available. If an agency files a supplemental notice of rule-making, a revised preliminary cost-benefit analysis must be available. When the rule is adopted, a final cost-benefit analysis must be available.

Votes on Final Passage:

Senate	48	1
House	93	0

Effective: July 27, 2003

SSB 5265
C 44 L 03

Allowing limited marketing of bottled wine at farmers markets.

By Senate Committee on Commerce & Trade (originally sponsored by Senators Thibaudeau, Honeyford, Jacobsen, Kohl-Welles, Johnson, Kline, McAuliffe, Rasmussen, Regala, B. Sheldon, Spanel, Winsley and Kastama).

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

Background: Domestic wineries are licensed by the Liquor Control Board. Domestic wineries may sell wine for off-premises consumption and serve samples of their products at up to two locations separate from the winery.

Each additional location must be approved by the board, and local jurisdictions, schools, and churches must be given an opportunity to object to the locations.

Summary: Domestic wineries may apply to the board for an endorsement to sell wine of their own production for off-premises consumption at a qualifying farmers market. The annual fee for this endorsement is $75. No tasting or sampling of wine may occur at farmers market locations. Wineries may not act as distributors from farmers markets. A farmers market endorsement may be issued in addition to permitted retail locations for wineries.

Before wine is sold at a farmers market, both the winery and the farmers market must receive authorization from the board. The farmers market's application for authorization includes a map of the farmers market showing all locations at which a winery may sell wine, and the name and contact information for the on-site market managers. The board may withdraw a farmers market's authorization for any violation of laws or rules pertaining to the board.

Before granting authorization, the board must notify local jurisdictions in which the market is located, as well as schools and churches near the market, that the market is seeking authorization for wine to be sold. These parties must have an opportunity to object to the sale of wine at the market.

For each month that a domestic winery sells wine at a farmers market, the winery must provide the board with prior notification of the dates, times, and locations of its farmers market sales.

The winery may not store wine at a farmers market beyond the hours that the winery offers bottled wine for sale. Wine sold at qualifying farmers markets must be made entirely from grapes grown in a recognized Washington appellation, or from other products grown entirely in this state.

"Qualifying farmers market" is defined as a "regular assembly of vendors at a defined location for the purpose of promoting the sale of agricultural products grown or produced in this state directly to the consumer." A location must meet the following criteria to be considered a qualifying farmers market: there must be at least five participating vendors who are farmers selling their own agricultural products; the combined gross annual sales of vendors at the market who are farmers must exceed the combined gross annual sales of vendors who are processors or resellers; the total combined gross annual sales of vendors who are farmers, processors or resellers must exceed the total combined gross annual sales of other vendors; no vendor at the market may sell imported items or secondhand items; and no vendor may be a franchisee.

Votes on Final Passage:

Senate	45	1
House	95	0

Effective: July 27, 2003

SB 5271
C 2 L 03 E2

Regarding industrial insurance hearing loss claims.

By Senators Honeyford, Hewitt and Parlette; by request of Department of Labor & Industries.

Senate Committee on Commerce & Trade

Background: An occupational disease is a disease or infection that arises naturally and proximately out of employment. A worker may receive medical and time-loss compensation for occupational diseases. Current law requires a worker to file an occupational disease claim within two years of the worker's receipt of written notice from a doctor that the medical condition was caused by exposure in the workplace.

Summary: A worker must file a claim for hearing loss due to occupational noise exposure within two years of the date of the worker's last injurious exposure to occupational noise or within one year of the effective date of this act, whichever is later. The compensation a worker receives is limited to medical aid benefits when a claim for hearing loss due to occupational noise exposure is not filed within two years of the worker's last injurious exposure.

Votes on Final Passage:

Senate	28	21
First Special Session		
Senate	27	19
Second Special Session		
Senate	25	13
House	69	21

Effective: September 10, 2003

SB 5273
C 45 L 03

Extending the use of veterans' scoring criteria in employment examinations.

By Senators Roach, Winsley, Kastama, Shin, Franklin, Rasmussen, Oke, Swecker, Schmidt, Reardon, West and McCaslin.

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

Background: Veterans receive extra points in competitive examinations to determine qualification of applicants for public employment.

Ten points are given to wartime veterans who do not receive military retirement, for the examination resulting in the veteran's first appointment.

Five points are given to peace time veterans and to veterans receiving military retirement for the examination resulting in the veteran's first appointment.

Five points are given to veterans who are called into active military service for one year or more, from public employment. This applies only to the first promotional examination.

There is a limitation on receipt of all these veterans' points. They must be claimed within 15 years of the veteran's release from active service, with limited exceptions.

Summary: All exceptions and limitations are eliminated. The veterans' points remain available to veterans upon their release from active service.

Votes on Final Passage:

Senate	46	1
House	86	6

Effective: July 27, 2003

SSB 5274
C 163 L 03

Revising funding of the archives division.

By Senate Committee on Ways & Means (originally sponsored by Senators Roach, Hale, Horn, Stevens and Haugen; by request of Secretary of State).

Senate Committee on Government Operations & Elections
Senate Committee on Ways & Means
House Committee on State Government

Background: In 1981, the Legislature created the Division of Archives and Records Management (division) in the Office of the Secretary of State. The division's job is to manage and safeguard public records. The State Archivist administers the division. The division collects and preserves historical state government records at the division's main Olympia office. The division collects and preserves local government records at five regional branch archive facilities, which are in Bellevue, Bellingham, Cheney, Ellensburg, and Olympia.

The funding for operation of the division comes from the archives and records management account in the state treasury. This account, in turn, receives its funds from three sources: (1) charges for storing, copying, microfilming, and other services that the division collects from its public and private users; (2) a $20 surcharge that judgment debtors pay in superior court when they satisfy warrants for unpaid taxes or liabilities; and (3) two $1 surcharges that the county auditors collect for each instrument they record, including such things as deeds and debt.

Under a specific allotment procedure, the judgment debtor revenue that comes into the account funds the division's costs regarding disaster recovery, essential records protection, and training of local governments in recordkeeping. Under the same allotment procedure, the revenue from one of the recorded instruments surcharge funds a myriad of services such as microfilm inspection, storage, and archival preservation. The revenue from the other recorded instruments surcharge funds construction of an eastern Washington regional archives facility.

Summary: The imaging account is created. The account collects fees from the division's services regarding copying and imaging (e.g., scanning). The revenue then exclusively funds the division's costs for providing such services. The account is not subject to appropriation, but the account is still subject to allotment procedure.

The local government archives account is created. It receives the money that previously came to the archives and records management account from the judgment debtor surcharge and the county auditor recording surcharges. The division's services that were previously funded from such revenues are still funded from such revenues. Likewise, the fees collected from such services also now go into this new account. The account is subject to appropriation.

Votes on Final Passage:

Senate	44	0
House	97	0

Effective: July 27, 2003

ESB 5279
C 8 L 03

Extending the expiration date of the transportation permit efficiency and accountability committee.

By Senators Prentice, Swecker, Horn, Haugen, Doumit, Finkbeiner, Benton, Esser, Morton, Johnson, T. Sheldon, Hargrove, Brandland, Honeyford, Jacobsen, Oke and Rasmussen.

Senate Committee on Highways & Transportation
House Committee on Transportation

Background: The Transportation Permit Efficiency and Accountability Committee (TPEAC) was created by Engrossed Senate Bill 6188, Chapter 2, Laws 2001, 1st special session. The committee was created with the goal of achieving transportation permit reform that expedites the delivery of transportation projects through a streamlined approach to environmental permit decision-making. The legislation charged the committee with the task of integrating current environmental standards. To carry out this task, the committee was directed to conduct three environmental permit streamlining projects, develop a one-stop permit decision-making process, seek federal delegation of permitting where appropriate, develop a dispute resolution process and develop various other permitting efficiency measures.

The committee includes nine voting members: four members of the state Legislature, three members from state agencies, and two local government representatives. Eight non-voting members include business, tribal, trade and environmental organizations. Federal agencies also participate.

An appropriation of $3,296,000 was provided to the Department of Transportation for support of the committee during the 2001-03 biennium. Other agencies contributed to the cost of the effort through dedicated staff time and other in-kind contributions. The act creating TPEAC expires March 31, 2003.

Summary: The committee is extended to March 31, 2006. Goals for specific outcomes are established. Detailed work plans are required, and dates are set for reports on progress.

Votes on Final Passage:

Senate	46	0
House	70	19

Effective: March 31, 2003

SB 5284
C 356 L 03

Penalizing failure to use required traction equipment.

By Senators Stevens, Horn, Benton, Haugen, Oke, Swecker, Esser and Mulliken.

Senate Committee on Highways & Transportation
House Committee on Transportation

Background: Under current law, failure to use particular tires, tire chains or traction equipment when advised to do so by the Department of Transportation (DOT) is a misdemeanor. A misdemeanor is a crime punishable by up to 90 days in jail, a fine of up to $1000, or both.

Summary: Failure to use required traction equipment is reclassified as a traffic infraction with a fine of $500. Technical amendments are made to update the terminology for road conditions to reflect those actually used by DOT. Different recommendations can be made by DOT or the State Patrol for four-wheel drive vehicles in gear.

Votes on Final Passage:

Senate	37	11
House	98	0

Effective: July 27, 2003

SSB 5290
C 46 L 03

Authorizing the horse racing commission to continue receiving criminal history information.

By Senate Committee on Commerce & Trade (originally sponsored by Senators West, Rasmussen, Hale and Winsley; by request of Horse Racing Commission).

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

Background: Horse owners, trainers, jockeys, veterinarians, and others who participate in pari-mutuel horse racing meets must be licensed annually by the Horse Racing Commission. An applicant's criminal history is one issue the commission considers as part of the licensing process.

Criminal history records can contain both conviction and nonconviction data. Conviction data includes arrests, detentions, and other formal charges that resulted in a disposition, along with arrests that are pending and less than one year old. Nonconviction data includes arrests, (including those with no dispositions that are over a year old), detentions, and formal charges that did not lead to convictions and that are not currently pending.

The Criminal Records Privacy Act (RCW 10.97.050) provides that "conviction records may be disseminated without restriction," but that criminal history records containing nonconviction data may be disseminated only as authorized by statute.

In Chapter 204, Laws of 2000, the Horse Racing Commission was authorized to receive criminal history records containing both conviction and nonconviction data. This statute is set to expire June 30, 2003.

Summary: The provision of Chapter 204, Laws of 2000, setting an expiration date is repealed.

Votes on Final Passage:

Senate	46	1
House	95	0

Effective: April 17, 2003

ESSB 5299
C 189 L 03

Concerning tariff and price list notices.

By Senate Committee on Technology & Communications (originally sponsored by Senators Stevens, Reardon, Esser, Finkbeiner, Johnson and T. Sheldon).

Senate Committee on Technology & Communications
House Committee on Technology, Telecommunications & Energy

Background: The Washington Utilities and Transportation Commission (WUTC) classifies telephone compa-

nies into two groups: those companies that have held historic monopolies over local markets, informally called "incumbent local exchange carriers" or ILECs, and those companies offering services that are subject to effective competition, called "competitive carriers." Washington has 24 ILECs and 567 competitive carriers.

Because of their historic monopoly position, ILECs must file tariffs for some of their services. A tariff is a document that contains a company's rates and terms of service, and a change to a tariff is subject to the review and approval of the commission. Changes to a tariff are typically not effective until 30 days after they are filed with the commission, but the effective date may be suspended by the commission.

There are two exceptions to the commission's usual process of reviewing changes to a tariff. First, ILECs may temporarily waive or reduce rates for up to 60 days, without being subject to suspension by the commission, if the changes are for the promotion of certain services, such as call waiting, call forwarding, and second access lines. Second, certain changes that decrease rates in a tariff may take effect upon ten days notice to the commission.

Unlike ILECs, competitive carriers file "price lists." Price lists are not reviewed or approved by the commission at the time of filing, but take effect upon ten days notice to the commission and customers.

Summary: A promotional tariff is effective upon filing with the WUTC and is not subject to suspension by the commission. A promotional price list offering is also effective upon filing.

A promotional tariff or offering is a temporary change that waives or reduces charges or condition of service for existing or new customers. This change may not exceed 90 days and is made for the purpose of retaining or increasing the number of customers who subscribe to or use a service.

The WUTC may allow changes to rates and charges in either a tariff or a price list to take effect upon filing without the required notice and publication of the changes.

Votes on Final Passage:

Senate	49	0
House	92	0

Effective: July 27, 2003

SSB 5305
C 243 L 03

Reviewing the state's need for construction aggregates.

By Senate Committee on Land Use & Planning (originally sponsored by Senators Mulliken, T. Sheldon, Sheahan, Reardon and Esser).

Senate Committee on Land Use & Planning
House Committee on Agriculture & Natural Resources

Background: Aggregate rock is a non-renewable mineral resource, composed of materials such as sand and gravel, which is used for mixing with cementing material to form concrete, mortar or plaster. Aggregate that is of sufficient commercial quality to meet construction standards is not located in all regions of the state. The cost to transport aggregate to construction sites can be substantial. In addition, the processing and permitting costs associated with constructing a long-term production facility may be as substantial as the transportation costs. As a result, projects may not be completed in a timely and economical fashion with the quality of aggregates necessary for long-term durability.

Summary: A nine-person committee is established for the purpose of determining whether there is sufficient construction aggregates within Washington State to meet the requirements of 20-year comprehensive plans under the Growth Management Act (GMA) and to meet the state's transportation needs under the GMA.

The committee determines whether environmental permit review procedures are efficient in balancing the need for timely processing of applications, while at the same time ensuring that adequate environmental protections exist.

The committee determines in general how the aggregate industry should be regulated and submits a final report as to all of the committee's findings to the Legislature by no later than December 15, 2003.

Technical and staff support is provided to the committee by the Department of Community, Trade, and Economic Development and the Department of Transportation.

Votes on Final Passage:

Senate	44	0	
House	95	0	(House amended)
Senate	41	1	(Senate concurred)

Effective: July 27, 2003

SSB 5310
C 202 L 03

Establishing bond requirements for title insurance agent licenses.

By Senate Committee on Financial Services, Insurance & Housing (originally sponsored by Senators Morton, Hargrove and Haugen).

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

Background: The Office of the Insurance Commissioner regulates title insurance companies and agents, including the escrow activities of title insurance

companies and agents.

If a title insurance company has a valid certificate of authority and a title agent is duly licensed, they may conduct the business of an escrow agent and are exempt from escrow licensing and escrow agent financial responsibility, which includes fidelity bonds and surety bonds.

Summary: When applying for or renewing a title agent license, if the applicant conducts the business of an escrow agent, the applicant must provide satisfactory evidence of financial responsibility, as is required of licensed escrow agents.

The title agent must have evidence of a fidelity bond providing coverage in the aggregate amount of $200,000, or with a deductible no greater than $10,000, or fidelity insurance and evidence of a surety bond in the amount of $10,000, unless the fidelity bond does not have a deductible.

For title insurance agents conducting the business of an escrow agent, the fidelity and surety bonds are required prior to the agent's authority to transact escrow business in this state.

Votes on Final Passage:

Senate	47	1	
House	92	0	(House amended)
Senate			(Senate refused to concur)
House			(House refused to recede)
Senate	46	1	(Senate concurred)

Effective: July 27, 2003

SSB 5321
C 47 L 03

Including public hospital districts in the definition of "local government" for the purposes of chapter 39.96 RCW.

By Senate Committee on Government Operations & Elections (originally sponsored by Senators Johnson and Prentice).

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

Background: Current law gives hospital districts the power to levy taxes, enter into bonds, take out loans and enter into any contract to carry out their statutory powers. However, the law does not explicitly authorize hospital districts to enter into contracts for debt-swapping, whereby they would exchange debt with a fixed interest rate for debt with a variable rate. Current law gives such explicit authority only to cities, counties, port districts, public utility districts, and a few state entities, as long as such entities have at least $100 million of existing principal debt or $100 million in gross revenues the previous year. Five hospital districts currently have over $100 million in gross revenues and would qualify to use payment agreements if current law allowed it.

State and local governmental entities, including hospital districts, finance much of their construction and purchasing of buildings through long-term debt instruments. For example, they issue general obligation bonds, take out loans, and enter into lease-purchase agreements. Like a home mortgage, the debt instruments obligate the governmental entity to make payments that include interest. The interest rate is generally fixed. The rate is set by the going rate in financial markets at the time the entity becomes indebted.

Just as homeowners can refinance a mortgage to get a better interest rate, current law empowers a limited number of governmental entities to exchange their fixed-rate debt for debt with a variable interest rate. In such arrangements, one party agrees to make the payments owed by the other party and vice versa for a certain period of time. This enables a party with fixed-rate debt to take advantage of lower interest rates available on the variable-rate debt. In turn, the other party reduces its exposure to the risk of rising interest rates.

Ideally, an entity should have a balance of fixed-rate and variable-rate debt. For entities that have large amounts of variable-rate debt, an exchange for fixed-rate debt offers more conservative debt management. In contrast, for entities that have large amounts of fixed-rate debt, an exchange for variable-rate debt can yield significant cost savings. The saving occurs because over time, variable interest rates tend to be lower than fixed rates.

The debt of public hospital districts consists almost entirely of fixed-rate debt.

Summary: Hospital districts are given the power to enter into payment agreements that swap their fixed-rate debt with variable-rate debt and vice versa. As with entities currently so empowered, a hospital district can take advantage of such payment agreements only if the district has over $100 million in outstanding principal debt or $100 million in gross revenues the previous year.

Votes on Final Passage:

Senate	49	0
House	95	0

Effective: July 27, 2003

SSB 5327
C 257 L 03

Clarifying the scope of practice of a dental hygienist.

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Deccio, Thibaudeau and Parlette).

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

Background: Dental hygienists licensed in Washington may remove deposits and stains from the surfaces of teeth, apply topical agents, and perform other dental operations and services delegated to them by a licensed dentist.

There is concern that dental hygienists be able to continue applying antimicrobials, a practice not specified in their scope of practice.

Summary: Dental hygienists may apply antimicrobials, which are prescription drugs, under the authority of a dentist.

Votes on Final Passage:

Senate	49	0	
House	95	0	(House amended)
Senate	42	0	(Senate concurred)

Effective: July 27, 2003

SSB 5335
C 197 L 03

Defining "motorcycle helmet."

By Senate Committee on Highways & Transportation (originally sponsored by Senators Zarelli, Haugen, Prentice, Mulliken, Benton, Oke and Carlson).

Senate Committee on Highways & Transportation
House Committee on Transportation

Background: Currently, persons riding motorcycles, motor-driven cycles, and mopeds are required to wear motorcycle helmets. The Washington State Patrol is authorized to adopt rules regarding motorcycle helmets. The State Patrol, in the Washington Administrative Code, has adopted the motorcycle helmet criteria of the U.S. Department of Transportation in Federal Motor Vehicle Safety Standard 218.

Summary: The authority of the Washington State Patrol to adopt rules for protective helmets is removed.

Motorcycle helmet is defined as a protective covering for the head consisting of a hard outer shell, padding adjacent to and inside the outer shell, and a neck or a chin strap type retention system, with a sticker indicating that the motorcycle helmet meets standards by the United States Department of Transportation.

Votes on Final Passage:

Senate	44	3	
House	83	9	(House amended)
Senate	42	5	(Senate concurred)

Effective: July 27, 2003

E2SSB 5341
C 16 L 03 E1

Establishing a quality maintenance fee on nursing facilities.

By Senate Committee on Ways & Means (originally sponsored by Senators Winsley, Kline, Thibaudeau, Carlson, Parlette and Kohl-Welles).

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

Background: Historically, state Medicaid programs have used a variety of mechanisms such as provider taxes, provider donations, and intergovernmental transfers to increase federal Medicaid revenues. The federal government has placed restrictions on these mechanisms, in order to limit the extent to which states may use federal funds to cover the state share of Medicaid costs. These restrictions include requirements that provider taxes be broad-based, which means the tax must apply to all providers of the same class, regardless of whether the provider participates in Medicaid or not. Provider taxes must also be imposed at a uniform rate, and they may not include any direct or indirect "hold harmless" provision which guarantees repayment of the tax to all providers.

Summary: A quality maintenance fee is imposed on nursing homes. All non-exempt nursing homes must pay a fee of $6.50, multiplied by each facility's total number of patient days (excluding Medicare days). The Department of Social and Health Services shall request a waiver of federal rules in order to exempt state-operated facilities, public hospital districts, and nursing homes with low rates of Medicaid occupancy from the fee. No fee is due from the facilities named in the waiver request pending a final federal decision. If the waiver request is not approved, the fee is payable in full.

The quality maintenance fee is terminated if it is disallowed under the federal Medicaid program.

Votes on Final Passage:

Senate	38	11	
House	92	6	(House amended)
Senate			(Senate refused to concur)
First Special Session			
Senate	38	8	
House	89	8	

Effective: July 1, 2003

ESB 5343

C 328 L 03

Allowing WRIA 40 to be divided for the purposes of chapter 90.82 RCW.

By Senators Parlette, Doumit, Mulliken, Hale and Deccio.

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

Background: Under Chapter 90.82 RCW, watershed planning is conducted according to the Water Resource Inventory Area (WRIA). Each WRIA corresponds to a watershed or river basin.

Watershed planning is conducted in three phases: (1) initiation and organization of a planning unit; (2) water quantity assessment and future use strategy; and (3) development of a watershed plan and recommendations for action. The phase three efforts of the earliest formed planning units are expected to come to fruition, in the form of completed watershed plans submitted to county legislative authorities, in 2003.

RCW 90.82.130 provides that the legislative authority of each county with territory in a watershed must conduct at least one public hearing on a proposed watershed plan, after which they must convene in a joint session to consider the plan. By majority vote, the members of each affected county can approve or reject, but not amend, the plan. Once adopted, watershed plan obligations are binding on county governments. Counties must also adopt implementing ordinances, as necessary, setting out how binding obligations within the plan will be implemented.

Upon application, the Department of Ecology (DOE) is authorized to provide up to $50,000 for phase one in single WRIA planning units, and up $75,000 in multi-WRIA units; up to $200,000 for phase two; and up to $250,000 for phase three.

Summary: WRIA 40 is split into two separate WRIA planning segments, 40a and 40b. Proposed WRIA 40a contains the Stemilt and Squilchuck watershed subbasins. WRIA 40b extends south of WRIA 40a and borders the western edge of the Columbia River through Kittitas, Yakima, and Benton counties.

WRIA 40a is eligible for one-fourth of the funding available for a single WRIA. 40b is eligible for the remaining three-fourths of the funding available for a single WRIA.

Votes on Final Passage:

Senate	49	0	
House	86	2	(House amended)
Senate	47	0	(Senate concurred)

Effective: July 27, 2003

SSB 5358

C 234 L 03

Authorizing issuance of high school diplomas to veterans of the Korean conflict who were honorably discharged and left high school before graduation to serve in the Korean conflict.

By Senate Committee on Education (originally sponsored by Senators West, Shin, Sheahan, Honeyford, Hewitt, Roach, Finkbeiner, Hale, Kline, McAuliffe, Winsley, Mulliken, Rasmussen and Schmidt).

Senate Committee on Education
House Committee on Education

Background: Under current law, local school districts may issue high school diplomas to honorably discharged World War II veterans who left high school before graduation in order to serve in the war. The Superintendent of Public Instruction establishes the evidence requirements necessary to prove eligibility for the diploma.

Summary: Local school districts may issue high school diplomas to honorably discharged veterans of the Korean conflict who were scheduled to graduate from high school but were unable to graduate due to service in the Korean conflict.

Votes on Final Passage:

Senate	49	0	
House	96	0	(House amended)
Senate	48	0	(Senate concurred)

Effective: May 12, 2003

SB 5363

C 150 L 03

Providing an ongoing funding source for the community economic revitalization board's financial assistance programs.

By Senators Hale, T. Sheldon, Fairley, Prentice, Doumit, West, Winsley, Rasmussen and Schmidt; by request of Governor Locke.

Senate Committee on Economic Development
Senate Committee on Ways & Means
House Committee on Appropriations

Background: The Community Economic Revitalization Board (CERB) was created in 1982 to provide funding for publicly owned economic development infrastructure. Through CERB, direct loans and grants are available to counties, cities, and special purpose districts for feasibility studies and for public improvements such as the acquisition, construction, or repair of water and sewer systems, bridges, railroad spurs, telecommunication systems, roads, structures, and port facilities. CERB funds are only made available if a specific private development or expansion is ready to occur and will occur

only if the public improvements are made.

CERB financing had traditionally come from general funds but since 1995 has come from a variety of accounts. Legislation passed in 2002 provides that, beginning July 1, 2004, interest earnings on the CERB account (the Public Facilities Construction Loan Revolving Account) are to be retained in the account rather than in the general fund. This amounts to approximately $200,000. per year. The 2002 legislation also provides for the CERB account to receive for five years, starting in 2003, the repayment of principal and interest on loans from the Public Works Trust Fund's timber and rural natural resources impact area programs, up to $4.5 million per year.

Summary: The interest earnings attributable to the Public Works Trust Fund's treasury account (the Public Works Assistance Account) is placed in the CERB account. This will amount to approximately $900,000 per year.

Votes on Final Passage:

Senate	46	0
House	93	0

Effective: July 27, 2003
July 1, 2005 (Sections 2 and 3)

ESB 5374
C 48 L 03

Administering funds received under the Help America Vote Act.

By Senators Roach, Fairley, Horn, Stevens, McAuliffe and Winsley; by request of Secretary of State.

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

Background: On October 29, 2002, the President signed into law the "Help America Vote Act of 2002" (H.R. 3295/P.L. #107-252). The act provides state and local governments with up to $3.9 billion over the next three years to replace antiquated voting systems. The funding that Congress is expected to appropriate under the act would fund states' replacement of existing voting systems with modern ones and also would reimburse funds already spent for upgrades. Some of the federal funding additionally would go toward state and local initiatives promoting voter education.

The act has several requirements that states must meet before they can receive the federal funds, including (1) establishment of an "election fund" in the state treasury; (2) notification from the Governor by April 29, 2003, that the state will use the monies in accordance with the act; and (3) certification by April 29, 2003, that the state will replace punch card and lever voting systems in qualifying precincts by the November 2004 general elections.

Summary: An election fund account is created in the state treasury to be administered by the Secretary of State. The account is an appropriated account. The following money is deposited into it:

1. amounts received from the Help America Vote Act of 2002, including amounts received from subsequent amendments; and
2. amounts appropriated or made available by the state Legislature for the purposes of carrying out the Help America Vote Act of 2002.

All earnings from investments, including interest, are credited to the account for election account purposes. The Secretary of State exclusively allots the funds to facilitate the implementation of the Help America Vote Act of 2002.

Votes on Final Passage:

Senate	47	0
House	92	0

Effective: April 17, 2003

ESB 5379
C 228 L 03

Revising rules for public access to dependency hearings.

By Senators Stevens, Hargrove, Carlson, Regala, Parlette, McAuliffe and Winsley.

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

Background: Dependency proceedings are court hearings which deal with the abandonment, abuse or neglect of a child by a parent, guardian, or custodian. Due to the sensitive nature of the information presented in such proceedings, courts currently exclude the public, allowing only those who have a direct interest in the case to be present in the courtroom. Some parents have experienced this closed proceeding as intimidating and secretive.

Summary: All dependency hearings are open to the public unless the judge believes that it is in the best interests of the child to close the hearing. Either parent may request that the hearing be closed. Additional limitations are described relating to public access.

Votes on Final Passage:

Senate	48	0	
House	93	0	(House amended)
Senate	47	0	(Senate concurred)

Effective: July 27, 2003

ESB 5389

C 382 L 03

Managing clean and sober housing.

By Senators Benton, Prentice, Winsley, Reardon, Roach, Shin, Zarelli, Regala and T. Sheldon.

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

Background: The Residential Landlord-Tenant Act governs landlord-tenant relationships. Tenants living in rental housing designed to be "clean and sober housing" do not fall under the scope of the Landlord-Tenant Act.

There is a concern that the ability of a landlord to effectively deal with a tenant who violates the rules of the clean and sober housing is substantially limited by the Landlord-Tenant Act.

Summary: For housing to be designated as "drug and alcohol free," the landlord of the federally assisted housing provides a drug and alcohol free environment, and support for recovery. There is a written rental agreement that specifies the tenant and his or her guests may not use or possess alcohol or illegal drugs. The tenant participates in a program of recovery and reports quarterly to the landlord his or her progress, including verification that the tenant is not using alcohol or illegal drugs.

The landlord has the right to request a urine analysis of the tenant to confirm sobriety, at the landlord's discretion and expense.

The tenant may be evicted if he or she uses alcohol or illegal drugs, if the tenant first receives written notice from the landlord of the violation. The written notice must state that the rental agreement terminates within three days and the tenant can cure the violation within one day of delivery. If a substantially similar violation occurs twice within six months, the landlord can terminate the tenancy with a one-day written notice.

Votes on Final Passage:

Senate	45	1	
House	97	0	(House amended)
Senate			(Senate refused to concur)
House	97	0	(House amended)
Senate	47	0	(Senate concurred)

Effective: July 27, 2003

SSB 5396

C 220 L 03

Enforcing conditions in deferred prosecutions.

By Senate Committee on Judiciary (originally sponsored by Senators McCaslin, Deccio, Thibaudeau, Eide and Brandland).

Senate Committee on Judiciary
House Committee on Judiciary

Background: A person who is charged with the gross misdemeanor offense of driving under the influence of alcohol or any drug (DUI) may petition the court to be considered for a deferred prosecution program. The petitioner must allege under oath that the wrongful conduct charged is the result of or caused by alcoholism or drug addiction for which the person is in need of treatment and, unless treated, will likely reoffend. The petition must also contain a case history and a written assessment prepared by an approved alcoholism or drug treatment program. As a condition of granting the deferred prosecution, the court will order that the petitioner not operate a motor vehicle without a valid operator's license and proof of liability insurance. The court will also order installation of an ignition interlock device if the person has previously been convicted of a DUI, the DUI presently charged involves an alcohol concentration of .15 or greater, or the person refused to take the test so no measure of the alcohol concentration is available. The court may also order the petitioner to make restitution and pay costs.

Summary: During the period of a deferred prosecution, the court may order reasonable conditions including, but not limited to, attendance at self-help recovery support groups for alcoholism or drugs, complete abstinence from alcohol and all nonprescribed mind-altering drugs, periodic urinalysis or breath analysis, and maintenance of law-abiding behavior.

A court may dismiss the charges pending against a petitioner who has successfully completed the two-year treatment program of a deferred prosecution and has complied with the conditions imposed by the court.

Votes on Final Passage:

Senate	49	0
House	93	0

Effective: July 27, 2003

SSB 5401

PARTIAL VETO

C 26 L 03 E1

Making appropriations and authorizing expenditures for capital improvements.

By Senate Committee on Ways & Means (originally sponsored by Senators Zarelli, Poulsen, Rossi, Fairley and Winsley; by request of Governor Locke).

Senate Committee on Ways & Means

Background: The programs and agencies of state government are funded on a two-year basis, with each fiscal biennium beginning on July 1 of odd-numbered years. The capital budget generally includes appropriations for

the acquisition, construction, and repair of capital assets such as land, buildings, and other infrastructure improvements. Funding for the capital budget is primarily from state general obligation bonds, with other funding derived from various dedicated taxes, fees, and state trust land timber revenues.

Summary: The omnibus 2003-05 capital budget authorizes new capital projects for state agencies and institutions of higher education. See the Capital Budget Summary published by the Senate Ways & Means Committee.

Votes on Final Passage:

Senate 49 0
First Special Session
House 93 3
Senate 47 0

Effective: June 26, 2003
June 30, 2003 (Section 919)

Partial Veto Summary: The Governor vetoed a number of sections; for specific information see "Legislative Budget Notes" published by the Appropriations Committee of the House of Representatives and the Senate Ways & Means Committee.

VETO MESSAGE ON SSB 5401

June 26, 2003

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 103; 148(1); 156(1); 161, lines 4-13 and lines 16-17; 171, lines 24-32; 172(1); 172(2); 215(1); 227(2); 229(1); 229(2); 232(3); 273(5); 304(2); 352(2); 401; 429; 620; 783; 816(1); 816(2); 816(3); 821(1); 821(2); 821(3); and 907(4)(g) of Substitute Senate Bill No. 5401 entitled:

"AN ACT Relating to the capital budget;"

Substitute Senate Bill No. 5401 is the state capital budget for the 2003-2005 Biennium. I have vetoed several provisions as described below:

Section 103, page 2, Office of the State Auditor

This appropriation would have provided $100,000 from the Thurston County Capital Facilities Account to move the Auditor from the Sunset Building and to purchase equipment. These proposed uses are inconsistent with the Thurston County Capital Facilities Account, as defined in existing statute. Moving costs are agency responsibilities within their operating budgets.

Section 148 (1), page 23, Department of Community, Trade, and Economic Development

The first proviso for the Seventh Street Theatre cites to Section 906(2)(b), which is intended for the acceleration of environmental rehabilitation and restoration projects. This project does not relate to natural resources and the reference is apparently in error.

Section 156 (1), page 28, Office of Financial Management (OFM)

Section 156(1) would have directed OFM to emphasize particular factors when reviewing capital appropriation requests from state agencies. This directive unnecessarily adds to existing statutory requirements already in place.

Section 161, page 30, lines 4 - 13 and lines 16-17, Department of General Administration

This appropriation would have provided $500,000 from the Thurston County Capital Facilities Account for Heritage Park. This appropriation is inconsistent with the purpose of the account as defined in statute. Heritage Park is an element of the state capitol campus and seat of government. Improvements to the park should be financed from general state obligations and not from funds derived from agency collected fees for services.

Section 171, page 34, lines 24 - 32, Department of General Administration

This proviso would have directed a revision to an existing agreement between the Insurance Commissioner and the department, which is already complete. The funds referenced in the proviso were spent on the feasibility study during the 2001-2003 Biennium.

Section 172(1) and (2), page 35, Department of General Administration

Subsections (1) and (2) would have created restrictions on projects less than $1 million by prohibiting use of funds for studies, surveys or carpet replacement. The funds appropriated in this section derive from agency fees for services so that the Department of General Administration can adequately maintain state-owned facilities, as required by statute. This proviso language would have unduly restricted the agency's ability to evaluate and remedy maintenance needs as they occur, potentially resulting in higher costs in the future.

Section 215(1), page 46, Department of Social and Health Services

Section 215(1) would have prohibited the expenditure of reappropriated funds for developmental disabilities facilities subject to closure. The language is ambiguous in its intent, since no developmental disabilities facility is scheduled for closure in the 2003-2005 biennium. Furthermore, if this prohibition were applied to each structure in a facility, it could prevent the preservation of essential buildings and jeopardize certification and eligibility for federal funding.

Section 227(2), page 50, Department of Social and Health Services

Section 227(2) would have prohibited the use of funds for demolition of abandoned structures at facilities managed by the Division of Developmental Disabilities. There is in excess of 300,000 square feet of abandoned and hazardous buildings already scheduled for demolition at Fircrest School, Rainier School, Lakeland Village and Yakima Valley School. Prohibiting removal of these buildings is inefficient and a risk to public safety.

Section 229(1) and (2), page 51, Department of Social and Health Services

In the operating budget, the department is required to develop a transition plan for the residential consolidation of clients from the Fircrest School. That transition plan will be complete by January 2004. The capital budget language in Section 229(1) and (2) would have required a capital facilities plan based on the operational planning determinations from this transition plan. Since the capital facilities plan would be due September 2003, it would create an inconsistency in the schedule of the operating plan.

Section 232(3), page 53, Department of Social and Health Services

Section 232(3) would have required review and approval by both the executive and legislative branches for a Juvenile Rehabilitation planning study. Since required components of the study are listed in Section 232(2), and the final study must be submitted to the Legislature, it is unnecessary to also submit the preliminary outline of project scope.

Section 273(5), page 67, Department of Corrections

Section 273(5) would have required review and approval of the. Master Plan scope of work by both the executive and legislative branches. Since other provisos in this section indicate the objectives and components of this effort, it is unnecessary for the department to obtain additional approval for the initial scope of work.

Section 304(2), page 71, Department of Ecology

This subsection would have provided $1.8 million of Local Toxics Control Account grants to Klickitat County for removal, disposal or recycling of vehicle tires. This effort is not an eligible project under the Local Toxics Control Account Remedial Action Cleanup Program. To be eligible for such funding, a site must be under an agreed-upon order or consent decree, have completed a site assessment and cleanup plan, and be a declared toxic waste site. This site does not meet these criteria.

Subsection 352 (2), Page 90, Interagency Committee for Outdoor Recreation

This proviso would have eliminated reappropriated funds available to the Washington Wildlife and Recreation Program (WWRP) on December 31, 2003. If these funds lapse, several local parks and/or recreational projects would be terminated due to the loss of state matching funds used to leverage local resources. Parks, trails and recreational areas are in short supply and it is the wrong time to shut down projects that eliminate jobs important to the vitality of local communities.

Section 401, Page 109, Department of Fish and Wildlife

This section would have appropriated $500,000 to develop a Wind Power Alternative Mitigation Pilot Program for the purpose of streamlining the mitigation process for wind power projects and associated habitat. While I fully support efforts to develop this renewable energy resource, additional direction is needed from the Legislature to determine the proper components of this program.

Section 429, Page 119, Department of Natural Resources (DNR)

This section would have provided $900,000 of general obligation bond funds to digitize an unspecified portion of the DNR geology library, which is being reduced to one full-time equivalent (FTE) in the operating budget. Expenses of this type are operating, not capital in nature, and are not appropriate for bond financing. In addition, the cost of digitizing the library collection is greater than the biennial cost to operate the geology library at the 2001- 03 staffing level.

Section 620, Page 133, University of Washington

This proviso would have assumed legislative approval of a future transportation budget. The reappropriated funds would have completed the design, right-of-way acquisition and environmental permits for an off-ramp into the University of Washington (UW) Bothell campus from State Route 522. The off-ramp is a requirement of the city of Bothell for future campus development of UW-Bothell and Cascadia Community College. However, due to anticipated student enrollment, additional campus development is not expected within the next six to ten years.

Section 783, Page 194, Community and Technical College System

This proviso would have assumed legislative approval of a future transportation budget. The reappropriated funds would have completed the design, right-of-way acquisition and environmental permits for an off-ramp into the Cascadia Community College campus from State Route 522. The off-ramp is a requirement of the city of Bothell for future campus development of UW-Bothell and Cascadia Community College. However, due to anticipated student enrollment, additional campus development is not expected within the next six to ten years.

Section 816(1), (2) and (3), Page 208, Community and Technical College System

These provisos would have placed overly restrictive conditions on the replacement of the North Plaza Building at Seattle Central Community College. Section 816(1) mandates construction limits that should, in part, be determined as part of the design phase of the project. Sections 816(2) and (3) require cost tracking data and additional expenditure accounting that are beyond the typical reporting requirements for a project of this size. This level of reporting poses an unnecessary expense to the college.

Section 821(1), (2) and (3), Page 210, Community and Technical College System

These provisos would have placed overly restrictive requirements on the renovation of Building 7 at Tacoma Community College. Section 821(1) mandates construction limits that should, in part, be determined as part of the design phase of the project. Sections 821(2) and (3) require cost tracking data and additional expenditure accounting that are beyond the typical reporting requirements for a project of this size. This level of reporting poses an unnecessary expense to the college.

Section 907(4)(g), Page 218, Community and Technical College System

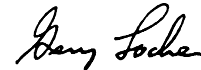
Section 907(4)(g) would have authorized South Puget Sound Community College to purchase approximately 25 acres of land for a permanent Hawks Prairie campus. This proposal assumes the financing of a new community college campus, a decision that should be based on an assessment of future needs as part of the comprehensive budget decision process.

In addition to vetoing the sections above, I am directing the Office of Financial Management to place in allotment reserve the Thurston County Capital Facilities Account appropriated to the Department of General Administration in Section 169, Page 33. The project management functions provided by the department for capital projects should be distributed equitably across fund sources for those projects. Appropriations for amounts in excess of the project management costs for capital projects in Thurston County are contrary to the express provisions of RCW 43.19.501. My intention is to hold the Thurston County Capital Facilities Account appropriation in allotment reserve and seek corrective appropriations in the first supplemental budget.

For these reasons, I have vetoed sections 103; 148(1); 156(1); 161, lines 4-13 and lines 16-17; 171, lines 24-32; 172(1); 172(2); 215(1); 227(2); 229(1); 229(2); 232(3); 273(5); 304(2); 352(2); 401; 429; 620; 783; 816(1); 816(2); 816(3); 821(1); 821(2); 821(3); and 907(4)(g) of Substitute Senate Bill No. 5401.

With the exception of sections 103; 148(1); 156(1); 161, lines 4-13 and lines 16-17; 171, lines 24-32; 172(1); 172(2); 215(1); 227(2); 229(1); 229(2); 232(3); 273(5); 304(2); 352(2); 401; 429; 620; 783; 816(1); 816(2); 816(3); 821(1); 821(2); 821(3); and 907(4)(g), Substitute Senate Bill No. 5401 is approved.

Respectfully submitted,



Gary Locke
Governor

SSB 5403

PARTIAL VETO

C 10 L 03

Making supplemental operating appropriations.

By Senate Committee on Ways & Means (originally sponsored by Senators Rossi and Fairley; by request of Governor Locke).

Senate Committee on Ways & Means
House Committee on Appropriations

Background: The operating expenses of state government and its agencies and programs are funded on a biennial basis by an omnibus operations budget adopted by the Legislature in odd-numbered years. In even-

numbered years, a supplemental budget is adopted, making various modifications to agency appropriations.

State operating expenses are paid from the state General Fund and from various dedicated funds and accounts.

Summary: Appropriations for various agencies are modified. For additional information, see "Supplemental Operating Budget Summary" and "Statewide Summary and Agency Detail" published by the Senate Ways & Means Committee.

Votes on Final Passage:

Senate	29	20	
House	94	1	(House amended)
Senate			(Senate refused to concur)
Conference Committee			
House	95	1	
Senate	34	14	

Effective: April 9, 2003

Partial Veto Summary: The Governor vetoed four portions of the 2001-03 Supplemental Appropriations Act: (1) an appropriation reduction of $3.8 million for the Children and Family Services Program of the Department of Social and Health Services was vetoed; (2) an appropriation reduction of $433,000 from the State Toxics Control Account to the Department of Agriculture was vetoed; (3) a $10 million reduction in state expenditures for travel, equipment, and personal services contracts was vetoed; and (4) a section restricting the authority of state agencies to create new staff positions or fill vacant positions was vetoed.

VETO MESSAGE ON SB 5403-S

April 9, 2003

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 202, lines 31 and 32; 305, lines 14 and 15; 706; and 707 of Substitute Senate Bill No. 5403 entitled:

"AN ACT Relating to fiscal matters;"

My reasons for vetoing these sections are as follows:

Section 202, Lines 31-32, Page 31, Appropriation Reduction for the Children and Family Services Program (Department of Social and Health Services)

This appropriation item would have reduced the appropriation to the Department of Social and Health Services' (DSHS) Children and Family Services Program by $3,804,000. DSHS has already adopted numerous measures to contain costs and achieve the savings assumed for this fiscal year. Equipment purchases and out-of-state travel have long ago been frozen and hiring has been delayed. However, a number of unanticipated, unavoidable costs will need to be covered between now and June 30, 2003, the conclusion of the fiscal year. Possible federal funding changes and additional expenses related to pending litigation are examples of these costs. Meanwhile, current budget estimates for the department indicate no ending fund balance with which to assure the agency can meet its obligations through the end of the biennium. I am directing the department to continue to aggressively cut costs wherever it can. This item veto provides the department a small amount of necessary budget flexibility so that they can properly close out the fiscal year.

Section 305, Lines 14-15, Page 105, Appropriation Reduction for the State Toxics Control Account (Department of Agriculture)

This appropriation item would have reduced the State Toxics Control Account appropriation to the Department of Agriculture by $433,000. However, this reduction is not similarly reflected in the proviso. Thus, there is a technical error. In order to correct it, I am vetoing the entire reduction. However, I am instructing the director of the Department of Agriculture to place $433,000 of the agency's provisoed State Toxics Control Account authority in reserve.

Section 706, Page 165, Allotment Reduction for Travel, Equipment, and Personal Service Contracts

This section would have directed the Office of Financial Management to reduce agency allotments for travel, equipment and personal service contracts by $10 million dollars. Without this veto, the Office of the Superintendent of Public Instruction's committed contracts to conduct the Washington Assessment of Student Learning and Iowa Test of Basic Skills assessments in the state's K-12 schools this year are jeopardized. This section also jeopardizes the contracts the Attorney General employs with expert witnesses to defend the state's interests in major lawsuits; the Department of Social and Health Services' ability to travel allowing Child Protective Service workers to safeguard vulnerable children on a daily basis; the Department of Corrections' essential ability to transport dangerous prisoners; and the Department of Transportation's construction contracts in place with the private sector.

State agencies need to do everything in their power to control discretionary expenditures in these difficult financial times. However, essential travel, equipment and personal services contracts are often critical in delivering direct services to Washington citizens, and cannot be stopped without affecting those services.

The $10 million cut in this provision would have been added to employee-related savings and program reductions already implemented in most agencies. Many agencies simply cannot absorb the cumulative effect of these multiple reductions in the three months remaining in the 2001-03 Biennium.

I agree with the general intent of this provision, therefore I am directing agencies to continue to closely monitor and control discretionary expenditures in preparation for the significant program cuts that will need to be part of the new budget that begins on July 1.

Section 707, Pages 165-166, State Employment Restrictions

This section would have prohibited executive branch agencies from establishing new staff positions and would have restricted agencies' ability to fill vacancies. In the recently passed budget proposal for 2003-05, the Senate has already recognized that this restriction is far too limiting. However, there are no assurances that a budget for the next biennium will pass the Legislature in time to cure this problem, so I am vetoing this section.

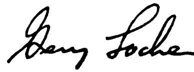
Directive No. 02-04, which I issued in December of 2002, set in motion the key provisions of this section of the supplemental budget by directing executive agencies to limit hiring and meet specific employee reduction targets. If this section were implemented, natural resource agencies like State Parks, the Department of Ecology, the Department of Agriculture and the Department of Natural Resources would have been unable to hire the essential spring and summer temporary employees to manage and safeguard our parks, campgrounds and recreational areas. The Consumer Advocacy program in the Insurance Commissioner's Office would have been unduly limited by this provision.

Agency budgets and employment levels have already been reduced in separate actions in this supplemental budget bill. In keeping with the intent of this section, agencies will continue to limit hiring to meet the employment reduction targets pursuant to my directive.

For these reasons, I have vetoed sections 202, lines 31 and 32; 305, lines 14 and 15; 706; and 707 of Substitute Senate Bill No. 5403.

With the exception of sections 202, lines 31 and 32; 305, lines 14 and 15; 706; and 707, Substitute Senate Bill No. 5403 is approved.

Respectfully submitted,



Gary Locke
Governor

ESSB 5404

PARTIAL VETO

C 25 L 03 E1

Making 2003-05 operating appropriations.

By Senate Committee on Ways & Means (originally sponsored by Senator Rossi; by request of Governor Locke).

Senate Committee on Ways & Means
House Committee on Appropriations

Background: Appropriations for the operations of state government and its various agencies and institutions are made on the basis of a fiscal biennium that begins on July 1 of each odd-numbered year.

Summary: Appropriations are made for the 2003-05 fiscal biennium.

For additional information, see the Statewide Summary & Agency Detail published by the Senate Ways & Means Committee.

Detailed information is also available at www.leg.wa.gov/senate/scs/wm.

Votes on Final Passage:

Senate	28	20	
House	52	46	(House amended)
First Special Session			
Senate	28	19	
House	67	30	

Effective: June 26, 2003

Partial Veto Summary: The Governor vetoed 14 sections or parts of sections (appropriation items) in the omnibus appropriations act. The net effect of the 14 vetoes is to increase state appropriations by $23.3 million.

VETO MESSAGE ON SSB 5404

June 26, 2003

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 141, lines 25-30; 148(2); 203(7); 203(10); 203(12); 204(1)(e); 204(1)(h); 205(1)(h); 209(12); 217(1); 308(14), lines 18-22; 501(2)(a)(iv); 717; and 724 of Engrossed Substitute Senate Bill 5404 entitled:

"AN ACT Relating to fiscal matters;"

Engrossed Substitute Senate Bill No. 5404 is the state operating budget for the 2003-2005 Biennium. I have vetoed several provisions as described below:

Section 141, Page 23, Lines 25-30, Motor Pool (Department of General Administration)

This proviso would have limited the purchase or lease of additional vehicles for the state motor pool unless deemed necessary for safety. The core business of the Department of General Administration (GA) Motor Pool is to provide passenger vehicles for state agencies at a price that is cheaper than other state agency in-house motor pools or private vehicle rental car businesses. As budgets shrink, GA will need to maintain a cost-effective vehicle replacement schedule in order to ensure low maintenance costs and high vehicle re-sale value.

Section 148(2), Page 27, Reimbursement for Travel (Washington Utilities and Transportation Commission)

This proviso would have allowed the Washington Utilities and Transportation Commission (WUTC) to accept reimbursement from the companies it regulates to allow WUTC employees to travel to multi- state regulatory meetings. This directive is contrary to a prohibition in the State Ethics Act, RCW 42.52.150(4)(g). Regardless, WUTC needs to develop policies for non-state reimbursement of state travel as required by the State Administrative and Accounting Manual Section 10.20.60.

Section 203(7), Page 35, Co-Occurring Pilot Project (Department of Social and Health Services - Juvenile Rehabilitation Administration)

Section 203(7) would have required that $1,478,000 from the Federal Juvenile Accountability Incentive Block Grant be used for continuation of the Co-Occurring Disorder Pilot Project. This project provides post-release planning and treatment of juvenile offenders with co-occurring disorders. The block grant was reduced for federal fiscal years 2003 and 2004. The state only has flexibility with respect to 25 percent of the federal funds received under the Juvenile Accountability Incentive Block Grant, which is less than the amount the proviso directs towards the post- release planning pilot program. Because the pool of eligible youth for these services will not necessarily require the full amount as appropriated, I am directing the Juvenile Rehabilitation Administration to continue the pilot, provide youth the post- release planning and treatment services needed, and utilize any remaining funds for other program requirements.

Section 203(10), Page 36, Transfer of Funds to Counties for Juvenile Services and Semi-Annual Report to Legislature (Department of Social and Health Services - Juvenile Rehabilitation Administration)

This proviso would have allowed the department to develop a funding distribution formula in consultation with juvenile court administrators and would have required a semi-annual report to the Legislature. I am directing the department to continue to coordinate with the court administrators to determine an appropriate distribution formula. However, this language creates a new reporting requirement for DSHS at a time when we are seeking ways to reduce reporting requirements in order to maximize limited staff resources; therefore, I have vetoed this subsection.

Section 203(12), Page 37, Allotment and Expenditure Reporting (Department of Social and Health Services - Juvenile Rehabilitation Administration)

Section 203(12) would have directed the Juvenile Rehabilitation Administration to allot and expend funds consistent with the category and budget unit structure submitted to the Legislative Evaluation and Accountability Program committee. This direction is consistent with current department-wide practices and is therefore not needed.

Section 204(1)(e), Page 39, New Six-Year Regional Support Network (RSN) Funding Formula (Department of Social and Health Services - Mental Health Program)

This proviso language could have been construed as restarting the implementation of the current RSN funding phase-in schedule, which has already been in place for two years. In addition, the department is required to comply with the federal Basic Budget Act that would actuarially adjust payment rates for community mental health services in its 2003-05 contracts with RSNs. My veto of this section will provide DSHS the flexibility to comply with federal requirements and continue the implementation of the new payment formula as originally scheduled.

Section 204(1)(h), Page 40, Regional Support Network Administrative (RSN) Cost Limit (Department of Social and Health Services - Mental Health Program)

This proviso would have limited state funding for RSN administrative costs to 10 percent of total funding. While one of the goals of my administration is to increase efficiencies and lower administrative costs, this approach is too broad and does not allow for differing circumstances among the regional support networks and their vendors, particularly in rural areas. Although I concur with the intent of the proviso, I have vetoed this section and direct DSHS to continue its ongoing efforts to work with the regional support networks to identify ways to deliver community mental health services in the most efficient manner.

Section 205(1)(h), Page 44, Consultation with Representative Stakeholders (Department of Social and Health Services - Developmental Disabilities Program)

This proviso would have required DSHS to identify redundant and unnecessary rules related to residential services for the developmentally disabled in consultation with service providers and clients. Without additional resources, I am concerned about the additional workload of a structured review requirement with providers and clients. Therefore, I have vetoed this section, but direct DSHS to continue its ongoing effort to remove redundant and unnecessary rules using the processes and procedures currently in place.

Section 209(12), Page 53, Report to the Legislature on the Projected Value of Drug Manufacturers' Supplemental (Department of Social and Health Services - Medical Assistance Administration)

This proviso would have required DSHS to separately track the total amount of supplemental rebates obtained from drug manufacturers, and compile a report thereon. Medical Assistance currently uses supplemental rebates to offset total expenditures. These amounts allow for the management of the budget within fiscal year requirements. Decisions about retail pharmacy reimbursement rates should continue to be treated in a manner consistent with all other provider rates - that is, as a separate policy step occurring in the context of all other budget decisions. I have vetoed this section with the expectation that the department will track supplemental drug rebates and be prepared to respond to questions about the value of those rebates, even though a formal report will not be required.

Section 217(1), Page 61, Crime Victims Compensation Program (Department of Labor and Industries)

This proviso would have limited the Department of Labor and Industries' ability to administer the Crime Victims Compensation program. The budget includes adequate funding for the program, however, this subsection restricts the use of these funds in a way that would delay claim decisions for crime victim benefits, slow the processing of medical payments and potentially reduce or delay the collections of restitution meant to offset costs. The Department will take actions necessary to keep administrative costs at the lowest level possible.

Section 308(14), Page 90, Lines 18-22, beginning with "It is the intent. . ." SDS Lumber Company Settlement (Department of Natural Resources)

Section 308(14) provides $2.7 million GF-S to the Department of Natural Resources (DNR) to acquire 232 acres of land and timber in Klickitat County from the SDS Lumber Company as part of a legal settlement. The proviso further requires DNR to recover through timber sales or federal grants, the $2.7 million GF-S during the 2003-05 biennium, stating that if DNR is unsuccessful, the Legislature intends to reduce expenditures in DNR's Forest Practices Program for 2005-07 by the amount not recovered. I am vetoing the intent section of this proviso, which improperly attempts to bind the actions of a future legislature. Further, I believe this settlement is a one-time event limited to the facts of the specific case, and not an administrative precedent.

Section 501(2)(a)(iv), Page 97, Federal Appropriation Transfer for Teen Aware Program (Office of the Superintendent of Public Instruction - Statewide Programs)

This subsection would have required the transfer of $400,000 of federal appropriation from the Department of Health (DOH) to the Office of the Superintendent of Public Instruction (OSPI) for the Teen Aware Program. Teen Aware is a program of student-produced media campaigns to promote sexual abstinence. Administration of Teen Aware has depended on a state match to the OSPI that is eliminated in the budget act. At the request of Superintendent Bergeson, I have vetoed this federal transfer, thereby reverting the appropriation back to DOH to promote sexual abstinence. I am directing the DOH to work with OSPI to explore options to continue involving students in the production of effective abstinence messages for young adults.

Section 717, Page 163, Agency Expenditures for Travel, Equipment, and Personal Service Contracts

This section would have required that the Office of Financial Management reduce agency allotments by a dollar amount based on the previous year's travel, equipment, and personal service contract expenditures. The Legislature has already added to my proposed staffing and efficiency cuts with further reductions in individual agency budgets. This additional cut is especially difficult for small and medium agencies to absorb without directly affecting client services. Furthermore, because the reduction only applies to General Fund-State dollars, it is not evenly applied to higher education institutions and other agencies that support travel, equipment and contracts with tuition or other non-state fund sources.

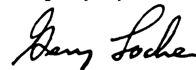
Section 724, Page 171, Agency Expenditures for Legislative Liaisons

In this proviso, the Legislature would have prohibited the use of appropriated funds for legislative liaison positions in higher education institutions and other state agencies, and eliminates related General Fund-State dollars. I am concerned that this restriction will unduly limit the ability of agencies to respond to legislative inquiries. Furthermore, some legislative liaisons are responsible for constituent and client relations for their agencies.

For these reasons, I have vetoed sections 141, lines 25-30; 148(2); 203(7); 203(10); 203(12); 204(1)(e); 204(1)(h); 205(1)(h); 209(12); 217(1); 308(14), lines 18-22; 501(2)(a)(iv); 717; and 724 of Engrossed Substitute Senate Bill No. 5404.

With the exception of sections 141, lines 25-30; 148(2); 203(7); 203(10); 203(12); 204(1)(e); 204(1)(h); 205(1)(h); 209(12); 217(1); 308(14), lines 18-22; 501(2)(a)(iv); 717; and 724 as specified above, Engrossed Substitute Senate Bill No. 5404 is approved.

Respectfully submitted,



Gary Locke
Governor

SSB 5407
C 354 L 03

Regulating motorsports vehicle dealer franchises.

By Senate Committee on Commerce & Trade (originally sponsored by Senators Horn, Prentice, Honeyford and Benton).

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

Background: The Motorcycle Dealers' Franchise Act, Chapter 46.94 RCW, regulates the relationship between motorcycle manufacturers and dealers of new or used motorcycles. Motorcycles include self-propelled motor vehicles under 1500 pounds that are capable of transporting people, except golf carts, farm tractors, industrial vehicles and lawnmowers.

The act establishes warranty reimbursement procedures, and prohibits a number of unfair trade and financial practices. Ownership of a motorcycle dealership in Washington by a manufacturer is also prohibited. A manufacturer must demonstrate good cause before terminating or refusing to renew a franchise, and is required to show reasonable grounds for objecting to the succession of ownership of a dealership to a designated family member. Civil remedies are provided.

Summary: The Motorcycle Dealers' Franchise Act is repealed and replaced with an act modeled after Chapter 46.96 RCW, the franchise law for new car dealers and manufacturers. Products covered by the act include motorcycles; mopeds; personal watercraft; snowmobiles; four-wheel, all-terrain vehicles; and other vehicles as defined by the Department of Licensing by rule.

A notice and appeal process is required when a manufacturer intends to either cancel a franchise, or locate or relocate a franchise within the relevant market area of another franchise.

Enumerated unfair trade practices are prohibited, and a manufacturer is required to not unreasonably withhold consent to the sale of a dealership.

The designation of a family successor and warranty reimbursement procedures are described.

Votes on Final Passage:

Senate	49	0
House	88	0

Effective: July 27, 2003

SSB 5409
C 331 L 03

Providing for direct petition annexations.

By Senate Committee on Land Use & Planning (originally sponsored by Senators Mulliken, T. Sheldon, Roach, Fairley, Schmidt, Kline, Swecker, Reardon, Deccio, Doumit, McCaslin, Parlette, Esser, Rasmussen and Shin).

Senate Committee on Land Use & Planning
House Committee on Local Government

Background: Under the current law, a requirement of the direct petition method for the annexation of territory is that the petition be signed by owners of at least 75 percent in value, according to the assessed valuation for general taxation, of the property to be annexed. This requirement was found to be unconstitutional by the Washington State Supreme Court on March 14, 2002, in *Grant County Fire Protection District No.5 v. City of Moses Lake*. As a result, the court invalidated the direct petition method for annexation for code cities and for non-code cities on the grounds that the direct petition method violated the privilege and immunities clause of the Washington State Constitution. Specifically, the court held that "if the Legislature grants people the power to petition for annexation, it must do so on an equal basis to all other similarly situated parties." Thus, the petition method, as it exists under current law, was found unconstitutional in that it "grants owners of highly valued property a privilege not afforded to other similarly situated parties."

Prior to the court's decision, the majority of annexations in Washington State were conducted using the direct petition method. After the court's decision, the election method of annexation is still valid. The election method, however, does not provide a means for the annexation of uninhabited territories.

Summary: The direct petition method of annexation is reviewed in recognition of the recent Washington State Supreme Court decision. To annex contiguous inhabited territory, a petition must be signed by: (1) owners of a majority of the acreage in the area to be annexed, and (2) a majority of registered voters in the area to be annexed. To annex contiguous uninhabited territory, a petition must be signed by owners of a majority of the acreage in the area to be annexed.

If property is owned by multiple owners, the signature of an owner designated by the multiple owners is sufficient for the petition.

The direct petition method remains an alternative method and does not supersede any other method of annexation.

An official plat is not required to accompany a petition; a "drawing" of the boundaries of the area to be annexed is sufficient.

Votes on Final Passage:

Senate	47	0	
House	95	1	(House amended)
Senate	48	0	(Senate concurred)

Effective: May 16, 2003

SB 5410
C 217 L 03

Revising information available on the statewide registered sex offender web site.

By Senators Stevens, Eide, Keiser, Brandland, Reardon, Roach, Prentice, Regala, Rasmussen, McCaslin, Benton, Winsley, T. Sheldon, Schmidt, Esser, Oke and Shin.

Senate Committee on Children & Family Services & Corrections
House Committee on Criminal Justice & Corrections
House Committee on Appropriations

Background: The Washington Association of Sheriffs and Police Chiefs (WASPC) administers a web site available to the public which provides electronic links to county operated web sites which offer sex offender registration information.

WASPC has developed, using private funds, a publicly accessible web site with information on all level III sex offenders in the state. The web site has mapping capabilities which can show, among other items, the offenders address, last name, and type of conviction.

Summary: Information on level II sex offenders, as allowed by law, is included on the web site. WASPC is also permitted to use funding from federal, state, or private sources to operate the web site.

Votes on Final Passage:

Senate	48	0	
House	95	0	(House amended)
Senate			(Senate refused to concur)
House	98	0	(House receded)

Effective: July 27, 2003

SB 5413
C 201 L 03

Allowing out-of-state licensees to practice commercial real estate.

By Senators Benton, Prentice, Reardon, Doumit, Honeyford, Mulliken, Rossi, Zarelli, Finkbeiner, Shin, Esser and Kohl-Welles.

Senate Committee on Financial Services, Insurance & Housing
House Committee on Commerce & Labor

Background: Only Washington licensed real estate brokers, associate brokers, or salespersons, may engage in the authorized practice of real estate, which includes selling, listing, or buying real estate for others. The practice of real estate also includes negotiating the purchase, sale, exchange, lease or rental of any real estate or business opportunities for others.

Washington does not permit out-of-state licensees to engage in the practice of real estate.

Summary: Out-of-state brokers may engage in the practice of commercial real estate if they (1) work with a Washington licensed real estate broker, (2) agree to follow Washington law, (3) furnish a copy of an out-of-state license in good standing, (4) consent to jurisdiction in the state for any legal actions arising out of their conduct, related to selling commercial real estate, and (5) include the name of the Washington broker on all advertising.

Substantially similar requirements are imposed upon out-of-state associate brokers and out-of-state salespersons, including the requirement that they furnish a current out-of-state license in good standing.

Votes on Final Passage:

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

Effective: July 27, 2003

SB 5425
C 84 L 03

Increasing the authorized total outstanding indebtedness of the higher education facilities authority.

By Senators Winsley, Prentice, Benton, Kohl-Welles, Carlson, B. Sheldon, Brown, Schmidt, Rossi, West and Sheahan; by request of Lieutenant Governor.

Senate Committee on Ways & Means
House Committee on Capital Budget

Background: In 1983, the Legislature authorized the Washington Higher Education Facilities Authority to issue tax-exempt bonds on behalf of private nonprofit colleges and universities to build, improve, and equip higher education facilities in a manner that minimizes capital costs.

To be eligible, the institution must be accredited, certified by the IRS under Section 501 (c)(3), have its main campus permanently situated in the state, and be open to residents of the state.

Eligible projects include dormitories, dining halls, student unions, administration buildings, academic buildings, classrooms, athletic facilities, health care facilities, parking facilities, etc.

The total allowable bonded indebtedness of the authority may not exceed $500 million.

Summary: The total allowable bonded indebtedness of the authority is increased from $500 million to $1 billion.

Votes on Final Passage:

Senate	49	0
House	85	10

Effective: July 27, 2003

SB 5429
C 85 L 03

Authorizing the Performance Registration Information Systems Management Program (PRISM).

By Senators Mulliken, Prentice and Horn; by request of Department of Licensing.

Senate Committee on Highways & Transportation
House Committee on Transportation

Background: The Performance and Registration Information Systems Management Program (PRISM) is a cooperative federal-state safety program developed to reduce commercial vehicle accidents through a comprehensive system of identification, education, awareness, safety monitoring and treatment. PRISM includes the Commercial Vehicle Registration Process and the Motor Carrier Safety Improvement Process (MCSIP).

MCSIP is a monitoring system that houses current safety event data used to assess and monitor motor carrier safety performance. Within MCSIP, carriers with potential safety problems are identified and prioritized for an on-site review. Carriers who do not improve their safety fitness record are given a federal operations out of service order.

Participating states register motor carriers, engaged in interstate commerce, using their unique United States Department of Transportation (USDOT) number. States may then check the USDOT number with the federal program and deny registration or revoke registration if the carrier has a federal out of service order safety status.

Summary: The following information must be submitted with an application for an original or renewal registration: (1) the USDOT number of the registrant and the motor carrier responsible for the safety of the vehicle, if different; and (2) the taxpayer identification number of the registrant and motor carrier responsible for the safety of the vehicle, if different. At the time of fleet renewal, or at the time of vehicle registration, a motor carrier must also submit a completed Motor Carrier Identification Report (MCS-150), if required by the Department of Licensing (DOL).

DOL must refuse to register, or suspend the registration of, a motor carrier, if the motor carrier has been prohibited from operating, under federal law, by the Federal Motor Carrier Safety Administration.

Votes on Final Passage:

Senate	48	0
House	95	0

Effective: July 27, 2003

SSB 5434
C 242 L 03

Concerning electricians.

By Senate Committee on Commerce & Trade (originally sponsored by Senator Swecker).

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

Background: The Department of Labor and Industries regulates the electrical profession at both the business level and the individual level: electrical contractors are licensed and individuals are certified. Current department policy requires both licensing and certification for volunteer electrical work at nonprofit corporations.

Summary: Certified electricians, and properly supervised electrical trainees, who perform volunteer electrical work for nonprofit corporations are not required to be licensed as electrical contractors. Compensation must not be received for the work. In order to qualify for this exemption, nonprofits must have tax-exempt status with the Internal Revenue Service, or must be nonprofit religious organizations. The size of projects is limited to a maximum value of $30,000 per project.

Votes on Final Passage:

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

Effective: July 27, 2003

SB 5437
C 413 L 03

Allowing all parties to appeal from adverse decisions of school district regional committees.

By Senators Benton, Schmidt, Zarelli, Shin, Carlson, Stevens and West.

Senate Committee on Education
House Committee on Education

Background: The Legislature does not establish school district boundaries but has created a petitioning process to regional committees to address changes in school district boundaries. To initiate a change, a petition must be signed by at least 10 percent of the registered voters residing in the territory proposed to be transferred or by a majority of the members of the board of directors of one of the districts affected by the change. Regional commit-

tees operate in each of the nine Educational Service Districts (ESDs). The regional committee members are registered voters of the ESD who are elected by the boards of directors of the school districts located in the ESD. The regional committee uses stipulated criteria to review petitions to change school district boundaries.

Currently, only regional committee decisions to change a school district boundary may be appealed to the State Board of Education (SBE). The appeal must be filed within 30 days of the regional committee's final decision. If the regional committee's decision is to maintain the boundaries, then there is no appeal available through the SBE. There is statutory authorization to appeal any decision to the superior court in the appropriate county.

Summary: The percentage of voters necessary to initiate a petition to change school district boundaries is increased from 10 percent to 50 percent plus one of the voters in the affected areas. Additionally, the voters must be active voters. Regional committee decisions to deny a change in school district boundaries may be appealed to the State Board of Education.

Votes on Final Passage:

Senate	47	2	
House	93	5	(House amended)
Senate	46	1	(Senate concurred)

Effective: July 27, 2003

ESSB 5448
C 232 L 03

Changing tuition provisions for institutions of higher education.

By Senate Committee on Higher Education (originally sponsored by Senators Carlson, Kohl-Welles, Mulliken, Horn, Brown and Schmidt; by request of Governor Locke).

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

Background: The Legislature has debated a number of issues in the quest for a new tuition policy since the practice of calculating tuition as a "percent of the educational costs" was discontinued in 1995. From 1995 to 1998, annual tuition rates were established directly in statute. From 1999-2002, the budget document has provided some local authority for institutional governing boards, within the overall limits in the operating budget, to establish tuition levels "up to" the maximum authorized by the Legislature. Governing boards were not required to adopt the same tuition increase for all categories of students but might differentiate among resident, nonresident, undergraduate, graduate, law or students in professional programs.

In the 2002 supplemental budget, the Legislature for the first time gave institutional governing boards unlimited authority to increase tuition for academic year 2002-03 for all categories of students other than resident undergraduate. The Legislature maintains the authority to establish in the operating budget, not in statute, the tuition levels for resident undergraduate students.

Institutional governing boards currently have statutory authority to establish fees for enrollment in summer school and other self-supporting degree programs or courses. However, under Initiative 601 fee increases may not exceed the fiscal growth factor (3.29 percent for fiscal year 2003) unless specifically authorized by the Legislature. Since 1999, the operating budget has authorized institutions to increase summer school fees above the fiscal growth factor.

Institutional governing boards also have the authority to establish services and activities fees for student activities and programs, but the annual increase in these fees cannot exceed the overall tuition increase for a particular category of student.

Summary: For six years, the governing boards of the four-year institutions of higher education and the State Board for Community and Technical Colleges are authorized to reduce or increase full-time tuition rates for all students other than resident undergraduates -- including summer school students and students in other self-supporting degree programs. Increases may exceed the fiscal growth factor. Explicit language gives tuition setting authority to the Legislature for setting resident undergraduate student tuition fees for six years. At the end of the six years, tuition authority returns to the Legislature and rates will be fixed at the 2008-09 levels until modified by law.

Annual increases in services and activities fees do not exceed the rate of increase in overall tuition for the resident undergraduate student category. For the 2003-04 academic year, the services and activities fees are based on the resident undergraduate rates from 2002-03.

For needy low- and middle-income resident law students, additional financial aid is provided from a portion of the revenue raised from the law school tuition rate increases beginning in academic year 2000-01 through 2008-09. For needy low- and middle-income resident graduate academic students, additional financial aid is provided from a portion of the revenue raised from graduate academic school tuition rate increases beginning in academic year 2003-04 through 2008-09.

Votes on Final Passage:

Senate	34	15
House	60	37

Effective: July 27, 2003

ESB 5450
C 353 L 03

Providing incentives to reduce air pollution through the use of neighborhood electric vehicles.

By Senators Horn, Jacobsen, Finkbeiner, Eide, Swecker, Reardon, Regala, Fairley, Kline, Fraser, Haugen, Keiser and Kohl-Welles.

Senate Committee on Highways & Transportation
House Committee on Transportation

Background: Neighborhood electric vehicles (NEVs) are four-wheeled electric vehicles that can reach a maximum speed of 25 miles per hour. They are not permitted on public highways in Washington State.

Motorized scooters have either internal combustion engines or battery-powered motors and can reach speeds of up to 20 miles per hour. Current law regulates bicycles, electric-assisted bicycles, motorcycles and motor-driven cycles, but does not include provisions regarding motorized scooters.

Summary: NEVs are defined as four-wheeled motor vehicles that are self-propelled and electrically powered that reach a speed between 20 and 25 miles per hour and conform to federal regulations. Drivers and passengers of NEVs must wear seatbelts and comply with the state's child restraint system requirements.

NEVs may be operated on state highways that have a speed limit of 35 miles per hour or less if the person operating the vehicle: (a) is not driving the NEV on a state highway route; (b) has a vehicle license for the NEV and displays vehicle license number plates; (c) has a valid driver's license; (d) is insured under a motor vehicle liability policy; and (e) does not cross a roadway with a speed limit over 35 miles per hour, unless the crossing begins and ends on a roadway with a speed limit of 35 miles or less and occurs at an intersection of approximately 90 degrees. A NEV must not cross an uncontrolled intersection of streets and highways that are part of the state highway system (which includes state highway routes and interstates), unless that intersection has been authorized by local authorities accordingly.

If a person operates a NEV and violates any of the above provisions, he or she is guilty of a traffic infraction.

With respect to streets and highways under their jurisdiction and within the reasonable exercises of their police power, local authorities may regulate the operation of NEVs by resolution or ordinance of the governing body; however, such authorities may not: (a) authorize the operation of NEVs on state highway routes, interstates, and other limited access facilities; (b) prohibit the operation of NEVs on public roadways with a speed limit of 25 miles per hour or less; and (c) prohibit the establishment of any requirement for registration and licensing of NEVs.

Motorized foot scooters are defined as: 1) having handlebars and two wheels that are no more than ten inches or smaller in diameter; 2) designed to be stood or sat upon; and 3) are powered by an internal combustion engine or electric motor. Vehicle licensing and registration provisions do not apply to motorized foot scooters, and operators are not required to have a drivers' license. Motorized foot scooters may be operated during daylight hours and before sunrise and after sunset if they have reflectors approved by the Washington State Patrol. Most provisions regulating mopeds do not apply to motorized foot scooters.

Motorized foot-scooters have the same highway access as bicycles and may be operated on a multi-purpose trail or in bicycle lanes; however, local jurisdictions may restrict access. The Parks and Recreation Commission may regulate the use of motorized foot scooters within the boundaries of a park. Motorized scooters may not have access to bicycle paths, trails, or bikeways built with federal funding.

Votes on Final Passage:

Senate	48	0	
House	93	0	(House amended)
Senate			(Senate refused to concur)
House	95	3	(House amended)
Senate	48	0	(Senate concurred)

Effective: August 1, 2003

SSB 5452
C 86 L 03

Regulating check cashers and sellers.

By Senate Committee on Financial Services, Insurance & Housing (originally sponsored by Senators Winsley, Benton, Prentice, Keiser and Reardon; by request of Governor Locke).

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

Background: Check cashers and sellers are legitimate businesses that provide short-term loans to individuals. Concern exists that some individuals who make use of "pay day loans" may find themselves in a cycle of debt and financial distress. It is believed by some that consumer protection would be enhanced by increased regulation of check cashers and sellers.

Summary: Borrowers who make use of "pay day loans" have a statutory right to a payment plan after making four successive loans. The payment plan provides for payment of the balance of the loan over a minimum period of 60 days, for payment of an additional fee.

Pay day loans may be rescinded by the borrower at no cost, within one business day. Lenders are prohibited from taking personal property as collateral, or from

collecting damages or fees beyond the $40 cost of collection allowed under the Uniform Commercial Code.

Pay day lenders cannot collect more than one post-dated check per pay day loan. Loan amounts and terms are increased, but no more than $700 may be loaned to a borrower at any one time.

The Department of Financial Institutions has increased enforcement capabilities.

Votes on Final Passage:

Senate	49	0
House	95	0

Effective: July 27, 2003
October 1, 2003 (Section 12)

SSB 5457
C 355 L 03

Posting hazards to motorcycles.

By Senate Committee on Highways & Transportation (originally sponsored by Senators Horn, Haugen, Oke, Johnson, Hargrove, B. Sheldon, Roach, Zarelli, Sheahan, Jacobsen, Stevens, Schmidt, Rossi, Eide, Kline, T. Sheldon, West, Shin and Rasmussen).

Senate Committee on Highways & Transportation
House Committee on Transportation

Background: Under current law, when construction, repair, or maintenance work is conducted on public highways, county roads, streets or bridges and the work interferes with the normal and established mode of travel, the location shall be properly posted by prominently displayed signs or flagmen or both. Signs used are to be consistent with the provisions found in the state of Washington "Manual on Uniform Traffic Control Devices for Streets and Highways" obtained from the Department of Transportation.

Summary: When construction, repair, or maintenance to highways, county roads, streets or bridges includes grooved pavement, abrupt lane edges, steel plates, or gravel or earth surfaces, signs must be posted warning motorcyclists of the hazard. The department must adopt by rule a uniform sign for this purpose including at least the language "Motorcycles use extreme caution."

Votes on Final Passage:

Senate	47	2	
House	93	0	(House amended)
Senate	43	0	(Senate concurred)

Effective: January 1, 2004

ESB 5463
C 17 L 03 E1

Authorizing a pilot project for military and overseas voters to vote over the Internet.

By Senators Roach, Kastama, Stevens, McCaslin, Oke, Horn, Fairley, Kohl-Welles, Schmidt, Winsley and Shin; by request of Secretary of State.

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

Background: All service and overseas voters currently must vote by absentee ballot. The ballots must be postmarked no later than election day and must reach the county auditor before the results are certified. Certification occurs 10 days after a primary or special election and 15 days after a general election.

The definition of "service voter" encompasses several categories of voters, including members of the armed forces, students and faculty of military academies, and participants in the address confidentiality program. On the other hand, an "overseas voter" is any voter outside the United States.

The federal National Defense Authorization Act of 2002 (Sec. 1604) requires the U.S. Secretary of Defense to undertake a pilot project in which absentee military voters can vote through an electronic voting system in the November 2004 general election. To ensure statistically reliable results, the law requires that the project have a sufficient number of participants.

Summary: Notwithstanding existing election laws in Title 29 RCW, seven counties are authorized to participate in an Internet voting pilot project. The project must comply with standards of the Federal Voting Assistance Program and the United States Department of Defense. The project is open only to those service and overseas voters who are registered to vote and fit the existing definitions of those terms. The project applies to all elections conducted through December 31, 2004.

The votes must be cast and counted in conformity with the provisions of Title 29 RCW. Election officials must rely upon the procedures established by the United States Department of Defense for security, secrecy, and validation of votes. Election officials are not subject to civil liability or criminal penalty for following such procedures. Votes cast over the Internet are subject to a recount or an election contest, but the grounds may not include an allegation of invalidity due to the electronic nature of the votes. The Secretary of State and participating counties must inform registered overseas and service voters of the pilot project, and the e-mail addresses of all participating voters must be made available for political purposes.

The Secretary of State must report to the Legislature on the results of the project.

Votes on Final Passage:

Senate	48	0
First Special Session		
Senate	45	1
House	89	8

Effective: September 9, 2003

SSB 5473
C 270 L 03

Requiring the criminal justice training commission to train officers on interacting with persons with a developmental disability or mental illness.

By Senate Committee on Judiciary (originally sponsored by Senators Regala, B. Sheldon, Johnson, Kohl-Welles, Winsley and Rasmussen).

Senate Committee on Judiciary
House Committee on Criminal Justice & Corrections

Background: All Washington State peace officers are required to complete basic law enforcement training. Pursuant to statutory requirements, the Criminal Justice Training Commission is responsible for establishing and providing basic law enforcement training. Currently, the basic law enforcement curriculum is composed of the following core subject areas: introduction to law enforcement, criminal law, criminal procedures, patrol procedures, communication skills, emergency vehicle operation, human relations, traffic law, firearms, defensive tactics, and criminal investigation.

Summary: The Criminal Justice Training Commission must develop, in consultation with appropriate organizations and agencies, a training session on law enforcement interaction with developmentally disabled and mentally ill persons. The training must consist of classroom or internet instruction and should be made available to law enforcement agencies, through electronic means, for use at their convenience. At a minimum, the training must address the following areas: (a) the cause and nature of mental illnesses and developmental disabilities; (b) how to identify indicators of mental illness and developmental disabilities, as well as how to respond appropriately in a variety of common situations; (c) conflict resolution and de-escalation techniques for potentially dangerous situations involving mentally ill and developmentally disabled persons; (d) appropriate language usage when interacting with mentally ill and developmentally disabled persons; (e) alternatives to lethal force when interacting with potentially dangerous mentally ill and developmentally disabled persons; and (f) community and state resources available to mentally ill and developmentally disabled persons, as well as how law enforcement can use these resources to benefit the mentally ill and developmentally disabled communities.

Votes on Final Passage:

Senate	48	0	
House	92	0	(House amended)
Senate	44	0	(Senate concurred)

Effective: July 27, 2003

SB 5477
C 239 L 03

Requiring the delivery of endorsements by recording officers.

By Senators Shin, Winsley and Schmidt.

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

Background: Current law requires a county auditor, upon request, to deliver or transmit electronically an endorsed instrument of writing required or permitted by law to be recorded, to the party leaving the document for recording or to the address on the face of the document.

Summary: The recording officer must either electronically transmit the endorsed document or deliver it to the party leaving it for recording or to the address on the face of the document.

Votes on Final Passage:

Senate	47	0	
House	95	0	(House amended)
Senate	46	0	(Senate concurred)

Effective: July 27, 2003

SSB 5497
C 357 L 03

Modifying relocation assistance provisions.

By Senate Committee on Highways & Transportation (originally sponsored by Senators Esser, Haugen and Oke; by request of Department of Transportation).

Senate Committee on Highways & Transportation
House Committee on Transportation

Background: Under its power of eminent domain, government may condemn real property and acquire the property for public use. The majority of condemnations are related to road and highway construction. The owner of the condemned property is entitled to compensation for the loss of the property. In addition to this, the displacing agency may be required to reimburse the displaced occupant for moving and related costs.

If local government is the displacing agency and no federal money is involved in the project, they may choose not to be covered by these provisions. Displaced individuals may choose between being reimbursed the

actual costs of moving himself, his family, and other personal property and receiving an expense and dislocation allowance determined according to a schedule established by WSDOT.

Business owners or farmers may elect to receive a fixed payment established by WSDOT of no less than $1,000 and no more than $20,000 if they meet criteria established by WSDOT or may choose to be reimbursed actual moving and related expenses. A person whose sole business at the displacement dwelling is the rental of the property does not qualify for this fixed payment option.

The actual expenses the business owner or farmer may be reimbursed for are (a) moving himself, family, business, or other personal property; (b) direct losses of personal property as a result of moving or discontinuing the business; and (c) searching for a replacement business. In addition, farms, nonprofit organizations, and small businesses may be reimbursed for costs of reestablishing the business up to $10,000.

Summary: The $10,000 limit for reimbursable business reestablishment costs is increased to $50,000.

Votes on Final Passage:

Senate	49	0	
House	94	0	(House amended)
Senate			(Senate refused to concur)
House	97	0	(House receded)

Effective: July 27, 2003

SSB 5505
C 49 L 03

Providing course study options for public high schools.

By Senate Committee on Education (originally sponsored by Senators Carlson, Rasmussen, Honeyford, Doumit and Eide).

Senate Committee on Education
House Committee on Education

Background: Current law requires school districts to offer courses that include content and skills addressed in the student learning goals, the high school graduation requirements, and minimum college entrance requirements. Student learning goal four provides that students must develop knowledge and skills essential to understand the importance of work and how student actions directly affect future career and educational opportunities. The minimum high school graduation requirements, established by the State Board of Education (SBE), require one credit in occupational education. Occupational education is defined as learning experiences designed to acquire skills under student learning goal four required in current and emerging occupations. The minimum requirements for freshman admission to Washington's public four-year universities and college, established by the Higher Education Coordinating Board, do not include any career or occupational educational requirements.

Additionally, current law requires schools to provide students an opportunity to pursue career and educational objectives through educational pathways that emphasize integration of academic and vocational education. Educational pathways may include programs such as work-based learning, school-to-work transition programs, tech prep programs, vocational-technical education, running start, and preparation for community or technical college or for a baccalaureate education.

Summary: In addition to providing programs for students who plan to attend a baccalaureate institution, all public high schools must provide programs for students who plan to pursue other career or work opportunities.

The programs may provide exploratory and preparatory opportunities specified in the bill.

SBE may provide a waiver from the requirements to provide these programs. When considering waiver requests, SBE must consider the extent the school district offered such programs prior to the 2003-04 school year.

Votes on Final Passage:

Senate	48	0
House	96	0

Effective: July 27, 2003

SB 5507
C 332 L 03

Clarifying who has standing regarding growth management hearings board hearings.

By Senators T. Sheldon and Mulliken.

Senate Committee on Land Use & Planning
House Committee on Local Government

Background: Under current law, the following persons have standing to file a petition before a growth management hearings board: a state, county or city that plans under the Growth Management Act; a person who participated orally or in writing before the county or city; a person certified by the Governor; or a person qualified under the Administrative Procedure Act.

Under the existing requirements, although aggrieved persons are required to participate at the local government level in order to have standing, there is no express requirement that limits the scope of issues that aggrieved persons may raise before a board. Thus, aggrieved persons potentially may raise new issues on appeal to a board without providing local governments notice or opportunity to address such concerns at the local government level.

Summary: In addition to the current standing requirements for aggrieved persons that such persons must participate orally or in writing before the local government

body, the aggrieved person must also establish that his or her participation before the county or city was reasonably related to the person's issue as presented to the board.

Votes on Final Passage:

Senate	33	16	
House	95	0	(House amended)
Senate	47	2	(Senate concurred)

Effective: July 27, 2003

SSB 5509
C 94 L 03

Creating a voluntary organ and tissue donor registry.

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators B. Sheldon, Kohl-Welles, Deccio and Winsley).

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

Background: Washington's Uniform Anatomical Gift Act permits a person to donate all or part of his or her body to another person. Such an organ donor may indicate his or her intent to donate by signing a "document of gift." This document may be a driver's license or a donor card. Unless the donor revokes his or her gift before death, the donation may occur without the consent of another person.

Approximately 80,000 people are on a national transplant waiting list; 1,200 of these are listed at Washington State transplant centers.

Concern exists that organ procurement in Washington is not sufficiently timely and successful.

Summary: A statewide organ and tissue donor registry is created. The Department of Licensing must electronically transfer the information on the driver's license or identicard of an organ donor to any Washington State organ procurement organization (Washington State OPO) that intends to establish a statewide registry. The Washington State OPO may also include donor information acquired from sources other than the Department of Licensing.

All reasonable costs of creating and maintaining the registry are paid by the Washington State OPO requesting the information.

Participation in the registry is not a requirement for being an organ donor. Any donors that are part of the registry, however, must notify a Washington State OPO if they revoke their donation so that their names may be removed from the registry.

An "organ and tissue donation awareness account" is created as a nonappropriated fund. The Department of Licensing must ask applicants for a new or renewed vehicle registration whether they would like to donate one dollar or more to the organ and tissue donation awareness account. Moneys collected by the Department of Licensing shall be credited to the organ and tissue donation awareness account and transmitted at least quarterly to the foundation established for organ and tissue donation awareness purposes by the Washington State OPOs. Funds from the account must be used proportionally across the state and may not be used for out-of-state programs.

Votes on Final Passage:

Senate	47	0	
House	77	17	(House amended)
Senate	47	0	(Senate concurred)

Effective: July 27, 2003
January 1, 2004 (Section 6)

SB 5512
C 166 L 03

Including nonprofits in the small business economic impact statement requirement.

By Senators Honeyford, Kastama, West, Keiser, Winsley and Rasmussen.

Senate Committee on Commerce & Trade
House Committee on State Government

Background: The Federal Regulatory Flexibility Act of 1980 gave federal agencies the power to reduce the impact of rules and paperwork requirements on small businesses. The state of Washington followed the federal practice in enacting the Regulatory Fairness Act in 1982.

Under the Regulatory Fairness Act, in most instances when a state agency proposes to adopt a rule, the agency must prepare a "small business economic impact statement." The statement must include a description of how small businesses will be involved in the development of the rule, an analysis of the costs of complying with the proposed rule, including whether compliance will result in lost sales or revenue, and whether the rule will have a disproportionate impact on small businesses. The statement must also identify the steps, if any, the agency took to reduce the costs of the rule on small businesses, or provide a "reasonable justification for not doing so."

"Small business" is defined to mean "any business entity, including a sole proprietorship, corporation, partnership, or other legal entity, that is owned and operated independently from all other businesses, that has the purpose of making a profit, and that has 50 or fewer employees."

Summary: For the purposes of the Regulatory Fairness Act, the requirement that an entity affected by a rule must have "the purpose of making a profit" is deleted from the definition of "small business." Agencies preparing small business economic impact statements must

consider the effect of rules on nonprofit corporations, charitable organizations and similar groups with 50 or fewer employees.

Votes on Final Passage:

Senate	49	0
House	98	0

Effective: July 27, 2003

SB 5515

C 224 L 03

Allowing judicial members on the board of industrial insurance appeals.

By Senators Johnson, Kline and Sheahan.

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

Background: The Department of Labor and Industries issues orders under the industrial insurance laws, the Worker Industrial Safety and Health Act, and other programs delegated to it. Employers, workers, providers or others who disagree with an order of the department may appeal to the Board of Industrial Insurance Appeals, an independent state agency.

Board hearings are conducted by industrial appeals judges, who must be "active" members of the Washington State Bar Association (WSBA). These judges enter proposed or recommended decisions, which become final unless a party to the appeal petitions for review by the board. Decisions of the board may be appealed to the superior court.

The board has three full-time members. The Governor appoints two members from lists of persons recommended by certain statewide organizations to represent employers and workers. The third member represents the public and serves as chair of the board. The Governor selects this member from a mutually agreed list of not less than three active members of the WSBA, submitted by the organizations that recommended the other two members of the board.

Only active members of the WSBA may practice law in Washington. An active WSBA member who becomes a judge or full-time administrative law judge may change to "judicial" membership status. A judicial member of the WSBA is not required to pay WSBA membership fees, and is prohibited from practicing law.

Summary: Industrial Insurance Appeals judges and the Chair of the Board of Industrial Insurance Appeals may be either active or judicial members of the WSBA.

Votes on Final Passage:

Senate	49	0
House	98	0

Effective: July 27, 2003

SSB 5520

C 352 L 03

Authorizing the ferry system to use alternative public works contracting procedures.

By Senate Committee on Highways & Transportation (originally sponsored by Senators Haugen, Horn and Oke; by request of Department of Transportation).

Senate Committee on Highways & Transportation
House Committee on Transportation

Background: Several state agencies and local governments have been authorized to use alternative public works contracting procedures to award contracts on public works. One alternative procedure is the "design-build" procedure. Another alternative procedure is the "general contractor/construction manager" (GCCM) procedure. The design-build procedure is a multi-step competitive process to award a contract for a single firm to design and construct a public facility or portion of a public facility that meets certain criteria. The GCCM procedure is a multi-step competitive process to award a contract for a single firm to provide services during the design phase, as well as acting as both the construction manager and general contractor during the construction phase, for a public facility that meets certain criteria. The contractor guarantees the project budget, or maximum allowable construction cost.

The Department of Transportation has the authority to enter into design-build contracts for highway construction and ferry construction. This authority was provided in SHB 1680, Chapter 226, Laws 2001, and expires April 30, 2008. Chapter 39.10 RCW provides alternative public works contracting for general public works. The Department of General Administration, University of Washington, Washington State University, every county with a population greater than 450,000, every city with a population greater than 70,000, any public authority, chartered by a city, that has received specific authorization on a project-by-project basis from the governing body of the city and any port district with total revenues greater than $15 million per year may use the alternative public works contracting procedures.

Additional entities that may use alternative public works contracting include any public utility district with revenues from energy sales of greater than $23 million per year and those school districts with projects approved by the school district project review board under RCW 39.10.115. Authority to use these alternative public works contracting procedures by these entities terminates on July 1, 2007.

Summary: The Department of Transportation State Ferry system is added to the definition of "public body" that enumerates the state and local entities that may engage in alternative public works contracting procedures under Chapter 39.10 RCW.

The State Ferry System is authorized to utilize design-build and GCCM contracting procedures on ferry terminal projects.

Votes on Final Passage:

Senate	47	0	
House	93	0	(House amended)
Senate			(Senate refused to concur)
House	96	1	(House receded)

Effective: July 27, 2003

SSB 5545
C 241 L 03

Using fees to develop and maintain a web-based vital records system.

By Senate Committee on Ways & Means (originally sponsored by Senators Esser, Reardon, Poulsen, Sheahan and Winsley; by request of Department of Health).

Senate Committee on Technology & Communications
Senate Committee on Ways & Means
House Committee on Appropriations

Background: Since 1907, the state Department of Health has maintained the state's vital records and statistics on births and deaths. Certified copies of birth and death certificates may be obtained either directly from the state Department of Health, or from local health departments. Since initiation of the state's Automated Birth Certificate system in 1992, approximately 85 percent of all certificates have come to be issued locally.

The fee for birth and death certificates is the same, whether the certificate is issued by the state or locally. Certified copies of birth and death certificates cost $13 a copy. Additional copies of death certificates ordered at the same time as the first cost $8 each.

Five dollars of each fee is placed in the "death investigations account," which funds, among other things, the state toxicology lab and county autopsy costs. The balance of the fee remains with the agency issuing the certificate. Locally collected fees are not shared with the Department of Health to support operation and maintenance of the statewide repository.

Fees were increased by $2 in 1997 to support the death investigations account. The last fee increase to support general system operation was in 1988.

In 2002, the Legislature directed the Department of Health to study the feasibility of implementing an electronic death registration system. In January 2003, the department issued a report recommending development and implementation of such a system by 2005. The report also recommended a fee increase for certified copies of vital records to fund the project.

Summary: The state and local fee for all certified copies of birth and death certificates is raised to $17. Local registrars may collect an additional service fee if payment is by credit card, debit card, or other electronic means. All fees paid locally stay with the local health jurisdiction, except for the following: (1) $5 of each fee collected for birth certificates and death certificates is placed in the death investigations account; (2) $2 of each fee is transferred to the Department of Health to support operation and maintenance of the statewide vital records system; and (3) $7 of each fee collected for additional copies of death certificates ordered at the same time as the first copy go to the Department of Health to develop and maintain the state vital records system, including the implementation of a web-based electronic death registration system.

Votes on Final Passage:

Senate	48	0	
House	77	20	(House amended)
Senate	44	0	(Senate concurred)

Effective: July 27, 2003

SSB 5550
C 50 L 03

Prohibiting secure community transition facilities from being sited near public and private youth camps.

By Senate Committee on Children & Family Services & Corrections (originally sponsored by Senators West, Stevens, Kastama, Roach, Kline, Johnson, Fairley, T. Sheldon, Thibaudeau, Benton, Keiser, Eide, Prentice, Kohl-Welles, Esser, Shin, Oke and Winsley).

Senate Committee on Children & Family Services & Corrections
House Committee on Criminal Justice & Corrections

Background: In 2001, the Legislature passed 3ESSB 6151. The bill was enacted and became effective June 26, 2001. The act established the Joint Select Committee for Equitable Distribution of Secure Community Transition Facilities (Committee). The Committee was charged with reviewing and making any necessary revisions to the provisions for equitable distribution and siting of secure community transition facilities (SCTFs). The Committee produced a report and recommended legislation. That legislation became ESSB 6594, which was enacted on March 21, 2002.

During the Committee work sessions, there were several proposals to adopt a broader list of risk potential facilities and activities. The only amendment the Committee made to that section was to define "school bus stop." The legislation also required King, Snohomish, Kitsap, Thurston, Clark, and Spokane counties, and the cities in those counties, to adopt or amend their development regulations to address the siting of SCTFs. Cities or counties that did not adopt regulations in compliance with the statutory requirements by October 1, 2002, would be preempted by operation of law and DSHS

would be able to site without regard to existing development regulations or other laws.

Summary: The definition of risk potential facilities and activities includes public and private youth camps. An SCTF may not be sited adjacent to, across the street from, or within the line of sight of a risk potential facility or activity unless the site was identified pursuant to a process for siting adopted by a city or county in compliance with the requirement to develop regulations for siting requirements under ESSB 6594.

The legislation applies prospectively and does not apply to development regulations adopted or amended prior to the effective date of the act.

Votes on Final Passage:

Senate	49	0
House	95	0

Effective: April 17, 2003

ESB 5560
C 51 L 03

Regarding the sale of liquor on grounds of institutions of higher education.

By Senators Honeyford, Keiser, Horn and Kohl-Welles; by request of University of Washington.

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

Background: Current law provides that it is unlawful to sell liquor on the grounds of the University of Washington, except at the faculty center.

Summary: The prohibition on alcohol sales at the University of Washington is repealed. If an institution of higher education chooses to allow the sale of alcoholic beverages on campus, the Legislature encourages the institution to feature products produced in the state of Washington.

Votes on Final Passage:

Senate	41	8
House	83	12

Effective: July 27, 2003

SSB 5561
C 87 L 03

Concerning restrictions on assignments under UCC Article 9A.

By Senate Committee on Financial Services, Insurance & Housing (originally sponsored by Senator Prentice).

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

Background: The Uniform Commercial Code (UCC) is a model code governing commercial transactions with the intent of creating uniformity between states. Washington's UCC Article 9A has been adopted as proposed by the UCC.

The old UCC 9, which governs secured transactions, including the sales of accounts, permitted the assignment of a security interest in accounts and general intangibles for the payment of money due or to become due, including assignments containing restrictions.

Revised UCC 9, which went into effect in July 1999, changed this language. Now, any terms which prohibit or restrict assignments on accounts, promissory notes, or payment intangibles are generally ineffective.

Terms used in the UCC: 1) "accounts" include payment obligations; 2) "promissory notes" include an instrument that evidences a promise to pay a monetary obligation; and 3) "payment intangible" means a general intangible under which the account debtor's principle obligation is a monetary obligation.

Structured settlements are voluntary agreements that enable the payment of a damage award for injury victims to be paid through a stream of payments tailored to their needs, as opposed to payment in one lump sum. In order to create a structured settlement, with favorable tax treatment under the Internal Revenue Service (IRS) Code, the assignor must be able to impose certain restrictions.

Summary: Restrictions on assignments for accounts, promissory notes, and payment intangibles do not apply to the assignment or transfer or creation of a security interest in a claim or right to receive compensation for injuries or sickness through accident or health insurance, such as workers' compensation or under a special needs trusts. This allows these settlements to be paid in a phased out manner over a period of time as a "structured settlement."

Votes on Final Passage:

Senate	49	0
House	95	0

Effective: July 1, 2003

SB 5570
C 26 L 03

Expanding the crime of communicating with a minor for immoral purposes.

By Senators Brown, Brandland, Kohl-Welles and Rasmussen; by request of Attorney General.

Senate Committee on Judiciary
House Committee on Judiciary

Background: Over half of American homes are connected to the internet. While the internet is a very useful tool, it is also sometimes used by sex offenders to anonymously target and manipulate children. Sex offenders

may mask their true identity, expose minors to sexually graphic images and communication, and "groom" their potential victims for an in-person meeting. To locate offenders illegally attempting to communicate with a child for immoral purposes, many law enforcement agencies employ adult detectives who pose as children online.

Communication with a Minor for Immoral Purposes is committed when a person communicates with a minor for the prohibited purpose. Prosecution for the offense may be problematic under the current statute, however, because the predator must be talking with an actual child to be in violation.

Summary: Communication with a Minor for Immoral Purposes may be committed by communicating with someone the offender believes to be a minor.

Votes on Final Passage:

Senate	49	0
House	95	0

Effective: July 27, 2003

SB 5574
C 27 L 03

Clarifying district court jurisdiction over actions involving commercial electronic mail.

By Senators Finkbeiner, Poulsen and Reardon; by request of Attorney General.

Senate Committee on Technology & Communications
House Committee on Judiciary

Background: The district courts in Washington State have concurrent jurisdiction with superior courts over misdemeanor and gross misdemeanor violations and civil cases under $50,000. They have exclusive jurisdiction over small claims and infractions.

Washington statutes regarding unsolicited, deceptive commercial electronic mail, or spam, are designed to protect state residents against bulk commercial e-mails that contain misleading information in the subject line, use a third party's internet address without permission or disguise the message's origin.

According to the Attorney General's Office, many plaintiffs have used Washington's anti-spam law to take legal action against out-of-state senders of spam in district courts. These plaintiffs have met with varying degrees of success. Some district courts have exercised jurisdiction over out-of-state defendants, and some have not.

Summary: It is clarified that the district courts in Washington State have jurisdiction over actions brought against senders of spam in violation of Washington's anti-spam law. It is also clarified that it is proper for the district courts in Washington to hear actions against nonresident defendants who violate Washington's anti-spam law.

Votes on Final Passage:

Senate	49	0
House	95	0

Effective: July 27, 2003

SSB 5575
C 329 L 03

Concerning small irrigation impoundments.

By Senate Committee on Natural Resources, Energy & Water (originally sponsored by Senators Parlette, Morton, Doumit, Honeyford and Hale).

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

Background: Currently, persons proposing to store water in a reservoir must get a reservoir permit from the state Department of Ecology, and, if they propose to beneficially use the stored water, a "secondary permit" authorizing the beneficial use. It has been suggested that relatively small irrigation facilities should be exempt from these requirements.

Summary: The following irrigation facilities are exempt from reservoir and secondary use permit requirements:

- Facilities for recapturing and reusing return flows from irrigation operations serving a single farm under an existing water right, as long as the acreage irrigated is not increased beyond the acreage limit authorized under the existing water right.
- "Small irrigation impoundments," lined surface storage ponds less than ten acre feet in volume used to impound irrigation water under an existing water right. Use of the small irrigation impoundment must facilitate efficient use of water or promote compliance with an approved recovery plan for endangered or threatened species, and must not expand the number of acres irrigated or the annual consumptive quantity of water used. A small irrigation impoundment need not be lined if a licensed engineer determines that a liner is not needed to retain water and prevent ground water contamination. Water remaining at the end of an irrigation season may be carried over for use in the next season, subject to the foregoing requirements. Development and use of a small irrigation impoundment does not require a water right holder to change, transfer, or amend any existing water right to enable them to store water governed by the right.

Votes on Final Passage:

Senate	49	0	
House	98	0	(House amended)
Senate	46	0	(Senate concurred)

Effective: July 27, 2003

SSB 5579
C 231 L 03

Revising provisions for boarding homes.

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Parlette, Jacobsen, Winsley, Brandland, Rasmussen, Esser, Reardon, Honeyford, T. Sheldon, Hargrove, Haugen, Doumit, Zarelli, Stevens, Deccio, Keiser, Mulliken and Shin).

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

Background: In early 2001, the Department of Social and Health Services (DSHS) began a two-year process of rewriting the rules that regulate boarding homes in this state. The process involved stakeholders' meetings held around the state, and the goal was to make rules more appropriate to the types of people who live in boarding homes and relevant to current practices.

The new rules are scheduled for adoption in April 2003. They change many elements of existing WAC, including, among other things, adding requirements related to assessments, negotiated care plans, minimum levels of service, staff training, qualifications for administrators, disaster preparedness, infection control practices, criminal background checks, and medication administration.

Boarding home advocates say the cost of implementing these new rules will be prohibitively expensive.

Summary: Boarding homes are not housing or services customarily provided under the landlord tenant agreements. A boarding home license is not needed when services in the facility are initiated and arranged by persons other than the boarding home licensee, and where emergency assistance is not provided frequently or on a routine basis.

Domiciliary care is defined as assistance with daily activities, general responsibility for the safety and well-being of the residents, or intermittent nursing services.

The department may issue a "limited stop placement" on boarding homes.

A rate system is described to pay boarding homes that hold beds for residents who temporarily leave the facility.

DSHS must submit a report to the Legislature by December 12, 2004, on the boarding home payment system, the validity of its assessment tool for categorizing residents into meaningful care, payment groups and other relevant information.

By December 2003, DSHS must report to the Legislature on the results of the dementia care pilot program.

Within available funds, the department may pilot an informal centralized dispute resolution process for two years.

Votes on Final Passage:

Senate	49	0	
House	93	0	(House amended)
Senate	45	0	(Senate concurred)

Effective: May 12, 2003

ESSB 5586
C 322 L 03

Granting authority to address concerns with lead-based paint activities.

By Senate Committee on Natural Resources, Energy & Water (originally sponsored by Senators Hargrove, Hewitt, Carlson, Oke, Fraser, Regala, Keiser and Kline).

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

Background: Lead was commonly used in paint until it was banned for residential use in 1978. Ingesting or breathing dust from lead-based paint is the most common form of lead exposure. Dust is released by the deterioration of paint and during remodeling. Lead is highly toxic and is especially dangerous to young children because they are more likely to ingest lead dust.

In 1992, Congress passed the Residential Lead-Based Paint Hazard Reduction Act, also known as Title X. Under Title X, the Environmental Protection Agency (EPA) and other federal agencies developed a national program to prevent and reduce lead-based paint exposures and hazards.

Title X allows states to provide for the accreditation of lead-based paint activities programs, the certification of persons completing such training programs, and the licensing of lead-based paint activities contractors under standards developed by the EPA. States that undertake these activities are eligible for federal grants.

Census data show that 1,560,000 homes in Washington State were built prior to 1978 when the sale of residential lead-based paint was banned. Many of these homes are believed to contain some lead-based paint.

Summary: The Department of Community, Trade, and Economic Development (DCTED) must administer and enforce a state program for worker training and certification, and training program accreditation for lead-based paint activities. The department is authorized to adopt rules that do not exceed the federal requirements necessary to implement a state program. The department may transfer implementation components of the program and enforcement responsibilities to local governments or

private entities, through delegation or by a memorandum of understanding.

No individual or firm can perform, offer, or claim to perform lead-based paint activities without certification from the department to conduct these activities. The department must collect specified fees for providing certification and accreditation.

Lead-based activities includes inspection, testing, risk assessment, lead-based paint hazard reduction project design or planning, or abatement of lead-based paint hazards.

Abatement of lead-based paint includes: (1) projects with written contracts for the permanent removal of lead-based paint; (2) projects conducted by certified individuals or firms; (3) projects conducted by individuals or firms that claim to be qualified to remove lead-based paint; or (4) projects conducted under state or local abatement orders.

Abatement does not include renovation, remodeling, landscaping, or other activities, not designed to permanently eliminate lead-based paint hazards, even though the activities may result in reduction or elimination of the hazard. Additionally, abatement does not include interim controls, operations and maintenance activities, or other measures designed to temporarily reduce lead-based paint hazards.

The department may deny, suspend, or revoke an accreditation or certification, or seek criminal sanctions, for failure to comply with the lead-based paint requirements.

The department may inspect areas where those engaged in training for lead-based paint activities conduct business, including the review of business records and the taking of samples at the business. Twenty-four hours notice of the inspection is required, when feasible. If access is denied, DCTED may revoke an accreditation or certification. Inspections of other premises or facilities may be conducted, with the consent of the owner or owner's agent, where violations concerning lead-based paint activities may occur, at reasonable times and, when feasible, with at least 48 hours prior notification of the inspection.

The program is terminated if sufficient funding is not provided by the federal government. The department's duties under the act are subject to authorization of the state program from the federal government within two years of the effective date of the act.

Votes on Final Passage:

Senate	44	5	
House	98	0	(House amended)
Senate	46	0	(Senate concurred)

Effective: July 27, 2003

SSB 5592

C 222 L 03

Allowing attorney issued garnishments and simplifying garnishment answer forms.

By Senate Committee on Judiciary (originally sponsored by Senators Mulliken, Eide, Johnson, Haugen, Sheahan and McCaslin).

Senate Committee on Judiciary
House Committee on Judiciary

Background: The clerks of the superior courts and district courts issue writs of garnishment for the benefit of a judgment creditor who has an unsatisfied judgment in the court where the garnishment is sought. The judgment creditor or plaintiff applies for the writ by affidavit and pays a fee to the court clerk. In district court, the plaintiff gives the defendant copies of the application for the writ, the writ, and the exemption documents. In superior court, a copy of the underlying judgment is given to the defendant, instead of the application for the writ.

A defendant may claim exemptions from garnishment and, if the plaintiff elects not to object to the exemptions, he or she must obtain a court order directing the garnishee to release the portion of the debt or property covered by the exemption claim.

A garnishee that has allowed a default judgment to be taken against it for failure to answer a writ can move to reduce the judgment amount within seven days of the time it is garnished.

Proponents of this bill believe allowing attorneys to issue writs of garnishment would reduce delays in the garnishment process and give court clerks more time to attend to other duties.

Summary: Writs of garnishment may be issued by the attorney of record for the judgment creditor. The effect of the writ is the same as one issued by a clerk of district court and the fee for the writ is $6 in district court. In district court, the plaintiff must supply the defendant with a copy of the affidavit submitted in application for the writ, a copy of the writ, and the exemption documents.

If a defendant claims exemptions from a garnishment, the attorney for the plaintiff may authorize the release of claimed exempt funds or property instead of having to obtain a court order. The form of the answer to the writ of garnishment is a simple, worksheet format. Only non-governmental pensions are subject to garnishment.

A garnishee that has allowed a default judgment to be taken against it for failure to answer a writ can move to reduce the judgment amount within seven days of the first time it is garnished.

Votes on Final Passage:

Senate	43	4	
House	93	0	(House amended)
Senate	40	4	(Senate concurred)

Effective: July 27, 2003

SSB 5596
C 229 L 03

Requiring that policies be developed on the reporting of custodial assaults at juvenile rehabilitation facilities and institutions.

By Senate Committee on Children & Family Services & Corrections (originally sponsored by Senators Stevens, Hargrove, McAuliffe, Parlette and Winsley).

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

Background: In recognition of the hazardous nature of their work, employees working for the Department of Social and Health Services, Department of Veterans Affairs, and the Department of Natural Resources are eligible for a supplementary reimbursement if they are assaulted by a resident, patient or juvenile offender, suffer injury as a result and miss days of work. The criteria for filing a claim for reimbursement are listed in detail in RCW 72.01.045. There is no requirement that assaults be reported to law enforcement.

Summary: The Secretary or Assistant Secretary of the Juvenile Rehabilitation Administration must develop uniform policies regarding custodial assaults applicable to all juvenile rehabilitation facilities. All custodial assaults on employees must be reported consistent with these policies.

Votes on Final Passage:

Senate	49	0	
House	95	0	(House amended)
Senate	43	0	(Senate concurred)

Effective: July 27, 2003

SSB 5600
C 359 L 03

Regulating disposition of returned license plates.

By Senate Committee on Highways & Transportation (originally sponsored by Senators Schmidt, Kohl-Welles, Esser, Finkbeiner, Rossi, Horn and Winsley).

Senate Committee on Highways & Transportation
House Committee on Transportation

Background: The Department of Licensing (DOL) receives a large number of returned or surrendered license plates each month. DOL cleans up some of the plates that are returned and gives them to collectors, school children and others who request a license plate for non-vehicular use. DOL does not honor requests for returned or surrendered specialty license plates.

Summary: DOL is authorized to provide license plates that have been used and returned to individuals who request a plate for non-vehicular use.

DOL may charge a fee of up to $5 per plate to recover postage and handling costs. DOL may waive the fee for those requesting plates for an educational purpose.

Votes on Final Passage:

Senate	49	0
House	91	2

Effective: July 27, 2003

SSB 5601
C 256 L 03

Limiting liability for physicians providing care at community clinics.

By Senate Committee on Judiciary (originally sponsored by Senators McCaslin and Deccio).

Senate Committee on Judiciary
House Committee on Judiciary

Background: RCW 4.24.300 is commonly known as the good samaritan law. It provides civil immunity for any person who, without compensation or expectation of compensation, renders emergency care at the scene of an emergency or participates in transporting an injured person for emergency medical treatment. The immunity does not extend to acts or omissions constituting gross negligence or willful or wanton misconduct. Proponents of this bill believe that physicians who perform free medical care in community clinics should also have this protection.

Summary: An osteopath or physician licensed in the state of Washington who provides health care services without compensation or expectation of compensation at a community clinic is not liable for civil damages resulting from such care. The immunity from liability does not extend to acts or omissions which constitute gross negligence or willful or wanton misconduct.

Votes on Final Passage:

Senate	34	15
House	84	12

Effective: July 27, 2003

SSB 5602

C 333 L 03

Concerning the accommodation of housing and employment growth under local comprehensive plans.

By Senate Committee on Land Use & Planning (originally sponsored by Senators Kline, Mulliken, Shin, Reardon, T. Sheldon, Esser, Oke, Sheahan, Hewitt, Prentice, Doumit, Keiser and Kohl-Welles).

Senate Committee on Land Use & Planning
House Committee on Local Government

Background: Counties and cities planning under the Growth Management Act (GMA) are required to accommodate within their urban growth areas designated in their comprehensive plans the amount of projected 20-year population growth that is allocated to their jurisdictions. In some counties, projected employment growth is also allocated to jurisdictions. Counties and cities must also designate and protect critical areas located within their urban growth areas. All GMA jurisdictions are required to update their comprehensive plans and development regulations, including critical areas ordinances, to accommodate projected growth and to protect critical areas.

Summary: A new section is added to the Growth Management Act (GMA) requiring counties and cities subject to the GMA to ensure that, taken collectively, actions to adopt or amend their comprehensive plans or development regulations provide sufficient capacity of land suitable for development within their jurisdictions. The requirement for sufficient capacity refers to accommodating a jurisdiction's allocated housing and employment growth as adopted in the applicable countywide planning policies and consistent with the 20-year population forecast from the Office of Financial Management.

Votes on Final Passage:

Senate	40	8	
House	89	0	(House amended)
Senate	43	0	(Senate concurred)

Effective: July 27, 2003

SSB 5616

C 251 L 03

Concerning insurer foreign investments.

By Senate Committee on Financial Services, Insurance & Housing (originally sponsored by Senators Benton, Prentice, Reardon, Zarelli, Winsley, Keiser and Finkbeiner).

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

Background: Insurers that are authorized to transact insurance in foreign countries may currently invest their funds in foreign countries, within limits. As part of the limited foreign investment structure, insurers have been allowed to invest no more than 5 percent of their assets in Canadian government and corporate obligations. Investment in the obligations of foreign governments and corporations have been limited to Canadian investments that meet specified standards of soundness and quality.

Summary: Insurers are allowed to invest no more than 10 percent of assets in the obligations of foreign governments or foreign corporations. Investment in any one foreign country cannot exceed 5 percent of the insurer's assets. Investments are limited to foreign jurisdictions with a sovereign debt rating of SV01.

Votes on Final Passage:

Senate	49	0
House	93	0

Effective: July 27, 2003

SB 5632

FULL VETO

Regarding utility relocation costs.

By Senators Esser, Fairley, Schmidt, Prentice, Horn and Rossi.

Senate Committee on Technology & Communications
House Committee on Technology, Telecommunications & Energy

Background: In 1993, the King, Pierce, and Snohomish county councils formed a regional transit authority, now known as Sound Transit. The authority is charged with implementing a high capacity transportation system and developing revenues to support the system.

In 1996, voters within the boundaries of Sound Transit approved a regional transit plan that includes construction of a light rail system. This construction will require the relocation of various utility facilities along the rail line.

Under the common law, when improvements to a public right-of-way require the displacement of a utility's facilities, the utility must pay for the relocation. This general rule, however, may be modified by state or local governments. For example, under a statute enacted in 2000, a telecommunications company may seek reimbursement from a city or town when aerial facilities are being relocated underground, when the company has paid for relocation of the same facilities within the last five years, or when the city is seeking relocation for aesthetic reasons.

Summary: In the case of a regional transit authority, the costs of removing or relocating utility facilities that

result from the construction, alteration, repair, or improvement of a rail fixed guideway system must be included in the cost of the system and must be paid by the authority. However, if a utility takes advantage of a relocation to upgrade its own facilities, it must pay the additional costs of the upgrade.

The transit authority and an affected utility must negotiate the engineering, design, and route selection of the system to minimize the cost and disruption of services related to the relocation.

Disputes over the cost of the relocation must be submitted to an independent auditor chosen by the disputing parties. The auditor's fee must be paid by the party requesting the audit. The auditor's decision is final.

Votes on Final Passage:

Senate	32	17
House	76	18

VETO MESSAGE ON SB 5632

April 23, 2003

To the Honorable President and Members,
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval, Senate Bill No. 5632 entitled:

"AN ACT Relating to utility relocation costs;"

This bill amends 81.112 RCW, enabling legislation for the Regional Transit Authority (RTA), to provide that the costs to relocate utility facilities required for construction of rail fixed guideway systems is a cost of the projects and must be paid by the RTA. It also provides that the RTA must negotiate the engineering, design, and route selection of the system with affected utilities.

Under traditional common law and under current state statute, when local governments make improvements to rights-of-way, utilities displaced by those improvements are required in most instances to pay the costs of relocation. Sound Transit and local governments properly relied on this existing law in preparing their budgets and design plans for the Tacoma and Central Link light rail projects.

Construction, including utility relocation, of the Tacoma and Central Links projects is already under way. To shift relocation costs from the utilities to Sound Transit at this late date would potentially disrupt or delay transportation projects that are vital to the Puget Sound region. I also have concerns with the provisions of the bill that could be interpreted as requiring utilities' approval of engineering, design, and route selection of the system.

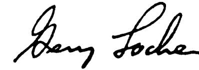
Although I am vetoing Senate Bill No. 5632, the proponents have raised some important issues. Telecommunications and energy utilities provide services that are no less critical to our state's economy than transportation. When transportation projects impose obligations on utilities that cause their costs to increase, those increased costs must be borne by businesses, homes, schools, and government institutions in the form of higher utility rates or reduced investments in needed telecommunications or energy infrastructure. I believe it is appropriate for regulatory bodies to acknowledge the added costs of utility relocation in rate- setting proceedings.

Citizens are both taxpayers and utility ratepayers. Whether the costs of transit projects are paid by taxpayers or by utility ratepayers, they are paid by citizens. I would support thoughtful, comprehensive legislation on utility relocation that addresses both public and private utilities, and encompasses projects sponsored by state government, local government, regional transit authorities, and other public or quasi-public entities. Such legislation should also address reported inequities and inconsistencies in current utility relocation policies.

Utility relocation, whether assumed by the project sponsor or utility, is clearly one of the costs of building or improving public infrastructure. The public interest is best served by a fair and uniform policy to minimize these costs whenever possible.

For these reasons I have vetoed Senate Bill No. 5632 in its entirety.

Respectfully submitted,



Gary Locke
Governor

SSB 5641

C 250 L 03

Providing civil and criminal penalties for the unlawful transaction of insurance or health coverage.

By Senate Committee on Financial Services, Insurance & Housing (originally sponsored by Senators Benton, Prentice and Winsley; by request of Insurance Commissioner).

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

Background: Part of the mission of the Office of the Insurance Commissioner is to protect consumers from a variety of fraudulent schemes. Recently, there has been an increase, both nationwide and in Washington State, of insurance companies who are unauthorized to do business, or are undercapitalized. These companies represent that they are selling insurance coverage, but when a consumer experiences what they thought was a covered loss and files a claim, the company cannot pay or, in some cases, vanishes entirely. In some cases, consumers have paid premiums, and are left with losses and few effective remedies.

Summary: Civil and criminal penalties and remedies are enhanced for unlawful solicitation of insurance business. The penalties apply to unlicensed persons acting as agents, brokers, solicitors or adjusters; failure of agents to make a good faith determination of the validity of an insurance company; and unregistered persons selling contracts involving health care services or health maintenance organizations.

Penalties include class B felony liability for knowing violations, and class C felony liability for conspiracy to violate insurance sales laws. Some insurance crimes may be penalized as gross misdemeanors. Criminal penalties are in addition to any other civil or administrative penalties. The Insurance Commissioner may also issue cease and desist orders, or assess civil penalties of up to $25,000, and take civil action to collect unpaid penalties.

Archaic insurance code language is modernized, and the crime of "transacting of insurance business beyond the scope of licensure" is added to the sentencing grid.

Votes on Final Passage:

Senate	49	0
House	97	0

Effective: July 27, 2003
July 1, 2004 (Section 14)

SB 5651
C 88 L 03

Authorizing land banks in certain counties with low population densities.

By Senators Hargrove, Mulliken and T. Sheldon.

Senate Committee on Land Use & Planning
House Committee on Local Government

Background: Under the Growth Management Act (GMA), counties must encourage urban growth within urban growth areas (UGAs) and may allow growth outside if it is not urban in nature. The GMA contains several exceptions to the general prohibition against urban growth outside UGAs, one of which grants certain counties the authority to designate an industrial land bank outside of a UGA for up to two master planned locations.

The option to establish industrial land banks was the result of 1995 legislation that intended to provide a more expeditious process for counties to identify locations for major industrial activity in advance of specific proposals and, thus, facilitate the siting of potential development projects. The counties' authority to establish industrial land banks terminates on two different dates, either December 31, 2002, or December 31, 2007, depending on established population, geographic, and unemployment criteria for the county.

Under current law, counties with an average level of unemployment for the preceding three years that exceeds the average state unemployment for those years by 20 percent and are bordered by the Pacific Ocean and by the Hood Canal are included among the group of counties with authority to designate industrial land banks. However, there are presently no counties that meet these requirements.

Summary: Counties that have population densities of less than 100 persons per square mile and are bordered by the Pacific Ocean and the Hood Canal are included among the counties that have the authority to establish a process for designating industrial land banks under the GMA (Jefferson and Clallam counties).

Votes on Final Passage:

Senate	48	0
House	95	0

Effective: July 27, 2003

SB 5654
C 253 L 03

Authorizing multiple fire districts to annex portions of a newly incorporated city or town.

By Senators McCaslin and Roach.

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

Background: If a newly incorporated city or town is located in one or more fire protection district, the city or town is deemed to have been annexed by that fire protection district or districts immediately upon incorporation. The newly incorporated city or town remains annexed to the district or districts through the remainder of the year of incorporation. The city or town council and the board or boards of fire commissioners can extend, by resolution, the annexation for an additional year. The city or town shall be withdrawn from the fire protection district or districts at the end of the period, unless a ballot proposition is adopted providing for annexation of the city or town to a fire protection district. Only those qualified electors that reside in the city or town or in the fire protection district can vote on the annexation. The statutes do not allow a newly incorporated city or town to permanently annex to multiple fire protection districts.

Summary: A fire protection district can annex that area of the newly incorporated city or town located within the district, or the city may annex to one fire protection district. In an election to annex to more than one fire protection district, the qualified elector must reside within the appropriate fire protection district, or within that area of the city located within the district.

Votes on Final Passage:

Senate	49	0
House	97	0

Effective: July 27, 2003

2ESSB 5659
PARTIAL VETO
C 24 L 03 E1

Authorizing additional funding for local governments.

By Senate Committee on Government Operations & Elections (originally sponsored by Senators Winsley, Kastama, Oke, Franklin, Swecker, Rasmussen, Regala and Kohl-Welles).

Senate Committee on Government Operations & Elections

Background: *Local Retail Sales and Use Taxation.* Cities and counties rely on retail sales and use taxes for a substantial part of their general revenues. The retail sales tax applies to goods and certain services purchased

at retail. The buyer pays the sales tax and the retailer collects the tax and remits it to the state.

The use tax is imposed on items used in the state that were not subject to the retail sales tax. This includes purchases made in other states and purchases from sellers who do not collect Washington sales tax. The tax rate is the same as that imposed under the retail sales tax. The person using the item pays the use tax directly to the state.

Counties may impose several local sales and use taxes at various rates and for various purposes. The most widely utilized are the basic tax, which is at a rate of 0.5 percent, and an optional tax, which is at a rate of up to 0.5 percent. The basic tax does not require approval of voters in a county, but voters can file referendums for optional taxes. In calendar 2001, the State Treasurer distributed to county governments about $260 million basic and optional sales and use taxes.

For most of the county sales and use taxes, the county is the sole entity that receives and uses the funds. There are several exceptions, however. For example, a county must share with its cities the receipts from the 0.1 percent tax for criminal justice programs.

Property Taxation. Both state and local government taxing districts levy property taxes. In addition to a constitutional 1-percent limit on the total rate of tax per parcel of property, there is a statutory 1-percent limit on the amount of revenue that any taxing district can collect compared to what it collected in prior years. Under this revenue "lid," the amount of revenue collected from a regular (i.e., non-voter-approved) property tax levy cannot be more than 1 percent above the highest 1-year amount collected in the past three years. The only exception is if the voters in the district approve a resolution for a "lid lift." A lid lift allows voters in a district to agree to tax themselves above the lid. However, the additional revenue from a lid lift can be collected only for one year per voter-approved resolution.

Growth Management Act. Counties with greater than a certain population and with greater than a certain population growth rate were required, along with the cities located within the counties, to plan under the Growth Management Act (GMA). Counties not meeting the population and growth thresholds could opt into the GMA by resolution of the county legislative authority. Once such a resolution is adopted, a county and the cities located within the county remain subject to all requirements of the GMA.

Comprehensive Plan Updates. Counties and the cities within them must review and update their GMA-comprehensive plans by certain dates. Counties not planning under the GMA must update their plans regarding critical areas and natural resource lands by certain dates. Those counties that must update their plans by December 2004 are Clallam, Clark, Jefferson, King, Kitsap, Pierce, Snohomish, Thurston, and Whatcom counties.

Summary: *Retail Sales and Use Taxes.* Any county may impose an increase in local sales or use tax of up to 0.3 percent. Motor vehicle sales and some motor vehicle leases are exempt from this sales tax. The increase is subject to approval of a majority of voters in the county. The county must distribute 40 percent of the revenues received to cities within the county on a per capita basis. One-third of this tax money must be used only for criminal justice purposes.

Regular Property Taxes. Voters in counties, cities and towns may by majority vote approve, in a primary or general election, a resolution for a levy lid lift that lasts up to six years. The resolution must specify the target dollar amount only for the levy's first year's collection amount. The resolution must specify some type of annual increase scale (e.g., the consumer price index) for setting the levy's succeeding years' amounts.

Growth Management Act. If a county has a population of less than 10,000, and has a privately owned taxable land base of less than 20 percent, and has no more than one incorporated city, then the county may adopt a resolution removing the county, and the city located within the county, from the requirement to plan under the Growth Management Act.

Comprehensive Plan Updates. Jefferson and Clallam counties are given an additional year to update their comprehensive plans.

Votes on Final Passage:

Senate	37	9	
House	56	42	(House amended)
Senate			(Senate refused to concur)
First Special Session			
Senate	36	9	
House	52	40	(House amended)
Senate	32	10	(Senate concurred)

Effective: July 1, 2003

Partial Veto Summary: The ability of certain counties to withdraw from the planning requirement of the GMA is removed. Jefferson and Clallam counties must update their comprehensive plans by December 1, 2004.

VETO MESSAGE ON SSB 5659

June 20, 2003

To the Honorable President and Members,
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to sections 3 and 5, Second Engrossed Substitute Senate Bill No. 5659 entitled:

"AN ACT Relating to authorizing additional funding for local governments;"

This bill responsibly addresses a growing problem in Washington State - the gap between local government revenues and expenses. It provides two different mechanisms for localities to deal with this situation. Both approaches have a common fea-

ture; they allow the taxes to take effect only if voters approve them.

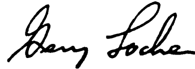
However, two sections of the bill are unrelated to its title, "an act relating to authorizing additional funding for local governments," which could jeopardize the constitutionality of the entire act. Sections 3 and 5 amend the Growth Management Act (GMA). While I realize that various jurisdictions have problems with GMA implementation, any changes to GMA should only be undertaken after careful consideration of relevant issues. It is also questionable whether two counties should receive an extension of the timetable for updating their comprehensive plans without clearer comparison to other counties' problems in meeting their deadlines for such updates.

I hereby direct my staff to work with the Department of Community, Trade and Economic Development and with concerned stakeholders over the next five months on potential amendments to the GMA. The deliberations should focus on how we can meet the goals of the GMA, plan for economic development, and protect our environment, while recognizing the difficult fiscal conditions facing so many local governments. The stakeholders should include a representative group of cities and counties, as well as the Association of Washington Cities and the Washington State Association of Counties. It is my intention that we bring to the 2004 Legislature a set of GMA amendments that can be adopted with broad support.

For these reasons, I have vetoed sections 3 and 5 of Second Engrossed Substitute Senate Bill No. 5659.

With the exception of sections 3 and 5, Second Engrossed Substitute Senate Bill No. 5659 is approved.

Respectfully submitted,



Gary Locke
Governor

SB 5662
C 151 L 03

Clarifying community economic revitalization board membership provisions.

By Senators Hale, T. Sheldon and Schmidt.

Senate Committee on Economic Development
House Committee on Trade & Economic Development

Background: The Community Economic Revitalization Board (CERB) was created in 1982 to provide funding for publicly-owned economic development infrastructure. Through CERB, direct loans and grants are available to counties, cities, and special purpose districts for feasibility studies and for public improvements such as the acquisition, construction, or repair of water and sewer systems, bridges, railroad spurs, telecommunication systems, roads, structures, and port facilities. CERB funds are only made available if a specific private development or expansion is ready to occur and will occur only if the public improvements are made.

The board membership is made up of the chair and one minority member from each of the economic development committees in the Senate and the House of Representatives, in addition to 11 members appointed by the Governor and four ex-officio members. Legislative members may designate another member from their economic development committee to attend board meetings in their place.

Summary: The legislative membership of the board is one member from each of the two major caucuses of the House of Representatives and the Senate. Legislative members may designate another legislator to attend board meetings in their place as long as that designated member belongs to the same political party caucus.

Votes on Final Passage:

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

Effective: July 27, 2003

ESB 5676
C 233 L 03

Regarding higher education financial assistance.

By Senators Carlson, Kohl-Welles, Mulliken, Shin and Schmidt; by request of Higher Education Coordinating Board.

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

Background: The Educational Opportunity Grant Program (EOG) was created in 1990 as a demonstration project to expand opportunities for needy Washington students with transfer degrees to obtain a baccalaureate degree. Eligibility for the grants was originally limited to placebound students living in one of the 13 counties served by the newly created branch campuses and attending any accredited public or private college or university except a branch campus. The grant amount of up to $2,500 does not exceed the student's financial need. Creation of EOG was based on an assumption that the size and cost of branch campus development might be reduced by encouraging students to attend another institution with enrollment capacity – especially a private college or university concerned that branch campuses could reduce enrollments in the private sector.

The program is administered by the Higher Education Coordinating Board (HECB) which has completed an evaluation of the program and recommends certain changes to the program to reflect the current educational climate.

Summary: Eligible, needy students applying for EOG may live in any of Washington's 39 counties rather than being limited to the 13 counties served by a branch campus. The same residency standards used for the State Need Grant apply to the EOG. To be eligible for the grant, in addition to completion of an Associate of Arts Degree, students may have completed an Associate of Science Degree.

EOG awards may be used at any accredited higher education institution approved for participation by the HECB, including branch campuses and in-state programs affiliated with colleges or universities accredited in other states. The restriction that grants are for attendance at institutions with unused enrollment capacity is removed.

The amount of the EOG remains fixed in statute and is set at a maximum of $2,500 per academic year, not to exceed the student's demonstrated financial need.

Eligibility for the Promise Scholarship is expanded to include students 21 years of age or younger who receive a GED certificate and on their first attempt receive a score of 1200 on the SAT I or 27 on the ACT.

Votes on Final Passage:

Senate	49	0	
House	97	0	(House amended)
Senate	36	12	(Senate concurred)

Effective: July 27, 2003

2SSB 5694
C 245 L 03

Creating a pilot project to develop an integrated environmental permit system.

By Senate Committee on Ways & Means (originally sponsored by Senators Swecker, Jacobsen, Horn, Doumit, Haugen and Rasmussen).

Senate Committee on Economic Development
Senate Committee on Ways & Means
House Committee on State Government
House Committee on Appropriations

Background: The environmental review and permitting process is controlled by a number of statutes. It has been suggested that the integration of the documentation and procedures needed for agency decision-making would streamline the permitting process.

Summary: By December 1, 2005, the Office of Permit Assistance must develop: (1) a guide for creating a unified project decision support document for state and federal agencies and local governments; (2) recommendations for an integrated permit system to integrate project design, review, permitting, and mitigation; recommendations for legislative changes needed to establish the system; and recommendations for full-scale testing of the system through a pilot project.

Meeting the requirements to develop a guide and recommendations is done through a pilot project of economic development significance. The office must submit reports on its efforts on December 1, 2003, and December 1, 2005.

The act expires December 31, 2005, and has no legal force if not specifically funded in the budget.

Votes on Final Passage:

Senate	48	0	
House	89	0	(House amended)
Senate	45	0	(Senate concurred)

Effective: July 27, 2003

SB 5705
C 409 L 03

Conforming the department of services for the blind provisions with federal law.

By Senators Winsley, Thibaudeau, Carlson, Fraser and Shin; by request of Department of Services for the Blind.

Senate Committee on Government Operations & Elections
House Committee on Children & Family Services

Background: The Department of Services for the Blind provides a variety of programs to blind and visually impaired persons of all ages. People whose vision is not correctable by ordinary eye care are likely candidates for services. The purpose of the department is to help such people become employed or retain employment so that they can live independently wherever they choose to live. When a client of the department's services is dissatisfied with the department, he or she can appeal the department's decision. Before a hearing occurs, the department conducts a process of reviewing the complaint.

Funding for the department mostly comes from federal sources. The Federal Rehabilitation Act of 1973 allocates the federal funding. To receive the federal dollars, the state must fund at least 21.3 percent of the department's costs. Any agency that receives the federal money must comply with the federal act. Currently, provisions in the Washington statutes are not in compliance with amendments to the act.

The department does not currently operate a telephonic reading service. A telephonic reading service is an electronic system that receives digital transmissions from newspapers on the morning of publication and reformats the data for conversion to synthetic speech. By dialing a toll-free number, newspapers are available to eligible persons over any touch-tone telephone. There is a telephonic reading service offered nationally through the National Federation for the Blind. The national service is funded by a federal grant set to expire this year.

The department operates the business enterprise program, which entails a vending service staffed by blind and disabled persons at vending sites in public buildings. The revenues from the program go into the business enterprise program account.

Summary: Technical changes are made in language relating to the department. The changes make language more consistent with language in the Federal Rehabilita-

tion Act. For example, terms relating to blindness are modernized and some definitions are clarified.

Substantive changes address the appeals process within the department. The administrative review that occurs before the hearing is removed, allowing the appellant to go straight to the hearing stage.

Substantive changes also give the department the authority to conduct background checks of applicants for jobs within the department. When doing background checks, the department must protect the confidentiality of applicants' personal information.

Additionally, sections are repealed that are repetitive or not used. The section relating to vocational rehabilitation training centers is repealed because another statute addresses such centers. The statute relating to medical eye care services is repealed because this is within the purview of the Department of Social and Health Services rather than the department.

Finally, the department is required to provide access to a telephonic reading service for blind and disabled persons. The department may contract for the service. The department must establish eligibility criteria for persons seeking to use the service. The department is authorized to use funds from the business enterprise program account, as well as donations and grant money, to support the service.

Votes on Final Passage:

Senate	48	0	
House	98	0	(House amended)
Senate	46	0	(Senate concurred)

Effective: July 27, 2003

ESSB 5713

PARTIAL VETO

C 399 L 03

Concerning electrical work.

By Senate Committee on Commerce & Trade (originally sponsored by Senators Honeyford, Prentice, Hewitt, Rasmussen, Mulliken, Sheahan and Oke).

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

Background: The Department of Labor and Industries (L&I) issues licenses to electrical contractors, certificates to electricians, and requires permitting and inspection of electrical work.

There are several exemptions to electrical permitting and inspections in the department's rules. These exemptions include: like-in-kind replacement of heating elements, small motors, and luminaire ballasts of the same ballast.

Unless electrical work is specifically exempt from regulation, all electrical work must be conducted by certified electricians. Unless plumbing work is specifically exempt from regulation, all plumbing work must be conducted by certified plumbers.

Summary: Certain appliance repair work in residential occupancies, when performed by manufacturer-authorized dealers, is exempt from electrical licensing and certification requirements. A joint legislative task force is created to review requirements relating to this work and report to the Legislature by December 1, 2003.

L&I is authorized to create an equipment repair specialty classification, which requires an applicant to have worked at least 2,000 hours in the equipment repair field before becoming eligible to be certified.

Certain classes of "basic electrical work" are defined and exempt from permitting requirements and some are subject to random inspections. Certain electrical and plumbing work that is incidental to other plumbing and electrical work is exempt from electrical and plumbing certification and licensing requirements, if performed by certain electricians and plumbers.

Training requirements for certified plumbers include 16 hours of classroom training on electrical topics. All persons certified as plumbers before January 1, 2003, are not required to complete this training. There is a continuing education requirement for certified plumbers: 16 hours are required every two years, and four of these hours must cover electrical safety topics.

Certain electrical regulations on maintenance work on electrical controls of boilers, when such work is performed by an employee of a service company, are suspended until July 1, 2004. The electrical board and the board of boiler rules must jointly evaluate whether those regulations should apply to such work and report to the Legislature by December 1, 2003.

Votes on Final Passage:

Senate	38	10	
House	97	1	(House amended)
Senate	48	0	(Senate concurred)

Effective: May 20, 2003 (Sections 601 and 701)
July 27, 2003

Partial Veto Summary: The exemption from licensing and certification requirements for repair, maintenance and replacement of electrical appliances in residential settings is eliminated. Authority creating a joint legislative task force is also removed.

VETO MESSAGE ON SB 5713-S

May 20, 2003

To the Honorable President and Members,
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to section 501, Engrossed Substitute Senate Bill No. 5713 entitled:

"AN ACT Relating to electrical work;"

This bill modifies the state electrical and plumbing statutes in a number of significant ways, including reducing the level of

government regulation currently borne by both businesses and workers.

Section 501 would have exempted the repair, maintenance, and replacement of electrical appliances in residential settings from electrical licensing and certification requirements.

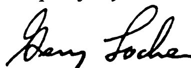
Licensing and certification are the only means the state has to ensure that well-trained and qualified individuals perform electrical work. Exempting these requirements, coupled with the exemption from inspection and permitting provided in other sections of this bill, would remove all regulatory oversight of electrical appliance replacement and repair work. This poses serious public policy concerns and could expose workers, homeowners, and the general public to hazards related to faulty electrical installations or repair.

Notwithstanding these concerns, I also want to ensure that the current level of regulation is not an unnecessary burden on the electrical appliance industry. Accordingly, after the first year of administering this act, I am directing the Department of Labor and Industries, to evaluate its impact and report its findings to me by December 31, 2004.

For these reasons, I have vetoed section 501 of Engrossed Substitute Senate Bill No. 5713.

With the exception of section 501, Engrossed Substitute Senate Bill No. 5713 is approved.

Respectfully submitted,



Gary Locke
Governor

SSB 5716
C 214 L 03

Prohibiting manufacture or sale of fraudulent drivers' licenses and identicards.

By Senate Committee on Financial Services, Insurance & Housing (originally sponsored by Senators Prentice, Winsley, Benton, Kline, McCaslin and Rasmussen).

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

Background: In addition to documenting a person's driving privilege, drivers' licenses are frequently used to verify identification for banking, check cashing and other transactions, including air travel. The significant increase in financial fraud crimes may be partially related to criminal use of stolen or fictitious drivers' licenses or identicards, as identification to commit fraud. Modern technology enables criminals to forge, steal, alter or counterfeit driver's licenses, and then use the phony identification to commit crimes.

Summary: It is a class C felony to manufacture, sell, or deliver a forged, stolen, fictitious, counterfeit, fraudulently altered or unlawfully issued driver's license or identicard, or develop and sell or deliver a blank license. The jurisdiction of this crime is considered to be in any locality where the victim resides, or in which any part of the crime took place, regardless of whether the defendant was ever physically in that locality.

Drivers' license crimes are only considered class C felonies if committed with criminal intent. For persons under 21, making up to four fake drivers' licenses is a misdemeanor if done for the sole purpose of age misrepresentation.

Votes on Final Passage:

Senate	48	0	
House	86	7	(House amended)
Senate	45	0	(Senate concurred)

Effective: July 27, 2003

SSB 5719
C 52 L 03

Penalizing the fraudulent use of credit card scanning devices.

By Senate Committee on Financial Services, Insurance & Housing (originally sponsored by Senators Winsley, Prentice, Benton, Finkbeiner and Shin).

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

Background: Credit card scanning devices are legitimately used to access, read, and store information encoded on credit cards and other forms of payment card, in order to process transactions. Some of the devices are small and portable, to facilitate businesses transacting with payment cards, in restaurants and other settings. Some employees and others may use scanners to obtain a cardholder's information, in order to commit financial fraud.

Summary: Fraudulent use of a payment card scanning device is a class C felony. Subsequent violations are a class B felony.

Votes on Final Passage:

Senate	49	0
House	96	0

Effective: July 27, 2003
July 1, 2004 (Section 4)

SB 5720
C 89 L 03

Allowing merchants to require additional identification when conducting credit and debit card sales.

By Senators Winsley, Prentice, Benton, Kline and Rasmussen.

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

Background: Credit and debit card fraud is increasing, costing consumers money and adding pressure to the limited resources of law enforcement. Some of this type of fraud might be preventable, if retailers were able to confirm the identity of the person making the transaction. Some retailers are prevented from asking for additional identification, because their master agreement with the credit card issuer prevents it.

Summary: Provisions of contracts between retailers and credit/debit card issuers that prohibit verification of identity during a credit/debit card transaction are void for violation of public policy. Merchants are not required to check additional identification, but may if they choose to do so. Retail chains may make and enforce their own policies regarding verification of identity.

Votes on Final Passage:

Senate	49	0
House	92	1

Effective: July 27, 2003

SB 5725

C 149 L 03

Providing tax incentives to support the state's semiconductor cluster.

By Senators Zarelli, T. Sheldon, Carlson, Reardon, Benton, Hewitt, Winsley, Hale, Sheahan, Honeyford, Finkbeiner, Johnson and West.

Senate Committee on Economic Development
Senate Committee on Ways & Means
House Committee on Finance

Background: A report performed for the Department of Community, Trade, and Economic Development has identified the semiconductor industry and its related firms as a significant cluster in Washington State. Semiconductor manufacturers are one component of these clusters.

Semiconductor manufacturers in Washington State currently pay the manufacturing business and occupation (B&O) tax of 0.484 percent. They are eligible for the manufacturing machinery and equipment sales and use tax exemption that exempts all machinery and equipment, and installation labor, for manufacturing from the sales and use taxes.

In addition, if a semiconductor manufacturer locates in a rural county with fewer than 100 people per square mile, it is eligible for three more tax incentives:

- a sales and use tax exemption on buildings and equipment used in manufacturing (if the business applied for this before July 1, 1994, it is only a deferral and must be repaid);
- a 20 percent B&O tax credit for job training, up to $5,000 per year; and
- a B&O tax credit for new manufacturing, research and development, or computer service jobs: $2,000 for jobs paying less than $40,000 per year and $4,000 for jobs paying at least $40,000.

Summary: Tax incentives targeting semiconductor manufacturers in Washington are created, as well as reporting requirements reflecting the usage and effectiveness of these incentives. With one exception as noted below, the tax preferences last for 12 years from this act's effective date.

1. The B&O tax for businesses of manufacturing semiconductor materials is set at a rate equal to the value of the product multiplied by 0.275 percent.
2. Manufacturers of semiconductor microchips in particular are exempt from the B&O tax for nine years after the effective date of this act.
3. The sale of gases and chemicals used by a manufacturer in the manufacturing of semiconductor materials is exempt from sales and use tax.

The following tax incentives are provided if the manufacturer maintains at least 75 percent of full employment at the new building over an eight-year period:

4. Labor, services, and sales of tangible personal property related to the construction of new buildings used for manufacturing semiconductor materials are exempt from state sales tax.
5. Businesses may claim a $3,000 B&O tax job credit for each manufacturing production position that takes places in a new building exempt from sales and use tax under this bill's semiconductor exemption. This credit is good for up to eight years.
6. Machinery and equipment used in manufacturing semiconductor materials, at a building exempt from sales and use tax under this bill's semiconductor exemption, is exempt from property tax.

No application for any of the tax incentives is necessary, except for an application for the property tax exemption to the appropriate county assessor.

Manufacturers claiming exemptions or credits must file annual reports detailing employment, wages, and health and retirement benefits with the Department of Revenue (DOR). Two reports to the appropriate fiscal legislative committees must be made, one at the fifth and one at the eleventh year after the effective date of this act.

Before a manufacturer can make use of these tax incentives, DOR must first determine that a contract exists for at least a $1 billion investment in the semiconductor facility.

Votes on Final Passage:

Senate	35	11	
House	94	4	(House amended)
Senate	40	8	(Senate concurred)

Effective: The first day of the month in which a contract for the construction of a significant semiconductor fabrication facility is signed.

SB 5726
C 252 L 03

Revising eligibility requirements for directors of cooperative associations.

By Senators Morton, Rasmussen, Brandland, Parlette, Swecker and Jacobsen.

Senate Committee on Commerce & Trade
House Committee on Judiciary

Background: Any number of persons may join together to form, with or without capital stock, a cooperative association under Chapter 23.86 RCW. An association may be formed to advance any lawful business, including any agricultural, dairy, mercantile, mining, manufacturing, or mechanical business.

The members of a cooperative association must elect a board, consisting of at least three directors or trustees. The directors or trustees must be members of the association.

Summary: The requirement that the directors or trustees of a cooperative association must be members of the association is eliminated.

Votes on Final Passage:

Senate	49	0
House	93	0

Effective: July 27, 2003

SSB 5737
C 237 L 03

Reporting abandoned property.

By Senate Committee on Ways & Means (originally sponsored by Senators Benton and Prentice).

Senate Committee on Financial Services, Insurance & Housing
Senate Committee on Ways & Means
House Committee on Finance

Background: Intangible property, when unclaimed by the owner for five years, is assumed abandoned and is subject to custody of the state if the last known address is within Washington. When a person holds such intangible property (presumed abandoned and subject to custody), the holder must remit the intangible property to the Department of Revenue (DOR). If the property is worth $25 or more, the holder must make a report to DOR. If the property is less than $25, it may be aggregated with other such property worth less than $25 and remitted without a report.

Reports must include: the name and last known address of each person appearing to be owner, insured, annuitant, beneficiary, if known; a description of the property and place held, in the case of the contents of a safe deposit box; the nature and identifying number, if any, of aggregated properties; and the date the property became payable, demandable, or returnable, and the date of the last transaction with the owner.

Persons holding such intangible property worth at least $75 must send written notice to apparent owners. When the intangible property is remitted to the state, DOR must also mail a notice to the last known owner and must publish a notice at least once a week for two consecutive weeks in a newspaper of general circulation within the county of the apparent owner's last known address.

In the case of a gift certificate presumed abandoned, the value is the price paid by the purchaser.

Summary: The threshold for reporting intangible property presumed abandoned and subject to custody is raised from $25 or more to $50 or more.

The amount of time allowed for DOR to publish its notice is extended two months, and DOR publishes notice once a year.

Votes on Final Passage:

Senate	44	4	
House	98	0	(House amended)
Senate	45	0	(Senate concurred)

Effective: July 27, 2003

SSB 5748
C 362 L 03

Implementing performance audits of transportation-related agencies.

By Senate Committee on Highways & Transportation (originally sponsored by Senators Finkbeiner, Haugen, Horn, Spanel, Jacobsen, Swecker, Benton, Hale, Kohl-Welles, Oke, Rasmussen, Esser, Schmidt and Shin).

Senate Committee on Highways & Transportation
House Committee on Transportation

Background: The State Auditor's Office regularly audits state and local government agencies. These fiscal audits focus on accounting controls and statutory compliance. Performance audits, on the other hand, focus on the operational effectiveness and efficiency of an organization or program. These audits are most typically conducted through the Joint Legislative Audit and Review Committee (JLARC) at the direction of the Legislature. Neither the State Auditor nor JLARC conduct regular scheduled performance audits of agencies.

Since 1991 there have been eight performance audits performed (seven since 1998) on the three major transportation-related agencies: Department of Licensing

(DOL); Washington State Patrol (WSP); and the Department of Transportation (DOT). All of the performance audits had recommendations to improve the efficiency and effectiveness of the agency and/or programs. Many (but not all) of the recommendations were implemented.

Most recently, there have been initiatives or referenda that required some form of performance auditing of transportation agencies. Referendum 51 contained provisions requiring a new citizen board to analyze and report on the expenditures and progress of new transportation projects that were to be funded with the new taxes proposed in that measure. Initiative 745 would have required (among other things) the State Auditor to conduct transportation performance audits. Proposed Initiative 257 would have required the State Auditor to conduct performance audits of all state agencies.

Summary: The Transportation Performance Audit Board (TPAB) is created to direct a two step performance review and audit process. The TPAB consists of the majority and minority leaders of the House and Senate Transportation Committees, five citizens with expertise in delivering transportation services, one gubernatorial appointee and one ex-officio member. The citizen members are nominated by professional associations and appointed by the Governor for four-year terms. The ex-officio member is the State Legislative Auditor. The Legislative Transportation Committee (LTC) provides staff services to the TPAB.

Step 1. Performance Reviews: The TPAB develops schedules and methodology for conducting performance reviews of transportation agencies. Reviews of agency performance and outcome measures provide the TPAB with information necessary to determine if a full functional or performance audit is needed.

At the request of the TPAB, the Executive Committee of LTC may request the State Legislative Auditor to conduct a full functional or performance audit. To the greatest extent possible, the Legislative Auditor shall contract with the private sector for audit services. The Joint Legislative Audit Review Committee receives cost-reimbursement from LTC for audit services or consultant services provided through contract.

Step 2. Performance Audits: If a functional or performance audit is warranted, the Legislative Auditor develops an audit scope. The Executive Committee of LTC and Audit Board must approve the audit scope. The audit scope may include nine specific elements: (1) identification of cost savings; (2) identification of services that can be reduced or eliminated; (3) identification of programs or services that can be transferred to the private sector; (4) analysis of gaps or overlaps in programs or services and recommendations to correct gaps or overlaps; (5) feasibility of pooling information technology systems within the department; (6) analysis of the roles and functions of the department, and recommendations to change or eliminate departmental roles or functions; (7) recommendations for statutory or regulatory changes that may be necessary for the department to properly carry out its functions; (8) analysis of departmental performance data, performance measures, and self-assessment systems; and (9) identification of best practices.

Votes on Final Passage:

Senate	49	0	
House	94	0	(House amended)
Senate			(Senate refused to concur)
House	97	0	(House receded)

Effective: May 19, 2003

SSB 5749
C 218 L 03

Revising procedures for hearings concerning violations by sex offenders of postrelease conditions.

By Senate Committee on Children & Family Services & Corrections (originally sponsored by Senators Hargrove, Stevens and Rasmussen; by request of Indeterminate Sentence Review Board).

Senate Committee on Children & Family Services & Corrections
House Committee on Criminal Justice & Corrections

Background: In 2001, 3ESSB 6151 established determinate-plus sentencing for sex offenders convicted of a first "2-strikes" offense and for offenders with a prior "2-strikes" offense who subsequently are convicted of a new sex offense. Under determinate-plus sentencing, the offender receives the sentence that he or she would normally receive under the Sentencing Reform Act as a minimum sentence plus a maximum sentence equal to the statutory maximum sentence permitted by law. During the period between the minimum and maximum sentence, the offender is to be released to community custody unless he or she is found to be more likely than not to commit new sex offenses.

The Indeterminate Sentence Review Board (ISRB) was given the authority over these offenders and the authority to impose sanctions for violations of release conditions. The provisions regarding offenders sentenced to a determinate-plus sentence were separated from those provisions for parole under indeterminate sentencing for crimes committed before July1,1984. The legislation distinguished community custody from parole by distinguishing the two standards for release and by requiring the ISRB to develop hearing procedures and a structure of graduated sanctions for community custody consistent with those developed by the Department of Corrections (DOC) for community custody under the Offender Accountability Act of 1999. The legislation also anticipated that the ISRB would enter an agreement with DOC to use its hearings officers.

The statute required the procedures to include a number of elements. These elements included time frames requiring a hearing within five days if the offender was held in confinement and 15 days if the offender was not held in confinement and were identical, except in one instance, with those set out under the Offender Accountability Act. Because, however, the possible result of a revocation hearing under 3ESSB 6151 is life in prison, these offenders under determinate-plus sentencing have the right to an attorney if revocation of community custody is a possible sanction for a violation. The Offender Accountability Act does not include the right to an attorney.

Summary: The time frames for community custody violation hearings are changed to 30 days whether or not the offender is in confinement from five days if the offender is confined and 15 days if the offender is not confined. A probable cause determination must be made within 48 hours.

An offender's right to an attorney for a violation hearing is changed from those hearings in which revocation of release to community custody is "possible" to those in which it is "probable." No offender's community custody may be revoked if he or she was not represented by counsel, unless the offender waived the right to counsel.

Hearings may be conducted by a designee of the board.

Votes on Final Passage:

Senate	47	1	
House	93	0	(House amended)
Senate	46	0	(Senate concurred)

Effective: July 27, 2003

SSB 5751
C 381 L 03

Concerning the sale of valuable material from state lands.

By Senate Committee on Natural Resources, Energy & Water (originally sponsored by Senator Hargrove).

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

Background: The state Department of Natural Resources sells valuable materials from state lands. They are sold as a lump sum sale or as a scale sale. The value the department can sell is limited to $20,000. The unit size for public land timber harvest units is established by the Board of Natural Resources.

Summary: The amount of valuable materials that can be sold at a direct sale after appraisal is increased from $20,000 to $25,000. The notice requirements may include notice by internet as an additional method. Sales up to $250,000 in value are exempt from the pamphlet publication requirements.

Votes on Final Passage:

Senate	48	0	
House	96	0	(House amended)
Senate	43	0	(Senate concurred)

Effective: July 27, 2003

SB 5758
C 53 L 03

Reorganizing criminal statutes within the RCW.

By Senators Stevens, Hargrove and Kline.

Senate Committee on Judiciary
House Committee on Criminal Justice & Corrections

Background: The criminal justice system relies on the accuracy and integrity of criminal history records. The information is shared by law enforcement, prosecuting attorneys, courts, the Department of Corrections, the Sentencing Guidelines Commission, the Caseload Forecast Council, and many other state and local entities. The state's Judicial Information Network is in the process of automating systems that allow for the electronic transfer of this information. To allow for the unambiguous identification and citation of offenses, some statutes need to be reorganized and restructured.

Summary: The purely technical changes do two things: (1) clearly identify each offense as a misdemeanor, gross misdemeanor, or class A, B, or C, felony, and (2) provide that each criminal penalty provision is in a separate subsection that can be uniquely cited.

Votes on Final Passage:

Senate	48	0
House	95	0

Effective: July 1, 2004

SSB 5761
C 54 L 03

Modifying requirements for industrial projects of statewide significance.

By Senate Committee on Economic Development (originally sponsored by Senators T. Sheldon and Shin).

Senate Committee on Economic Development
House Committee on Trade & Economic Development

Background: In 1997, the Legislature created a process to expedite the development of industrial projects of statewide significance. Industrial investments of statewide significance are defined as either a border crossing project that involves both private and public investments or a private capital investment in manufacturing or

research and development. The capital investment threshold is dependent on the size of the population in a county. The capital investment requirements range from $20 million for a project located in a county with a population of 20,000 or less, to $1 billion for a project located in a county with a population greater than one million. The Director of the Department of Community, Trade, and Economic Development (CTED) may designate a project as one of statewide significance in special circumstances.

Counties and cities may include in their written plans a process to expedite the review, approval, permitting, and completion of projects of statewide significance.

CTED must assign an ombudsman to each project of statewide significance to assemble a team of state, local government, and private officials to help meet the project's planning and development needs.

In 2001, the Legislature created the Office of Permit Assistance in the Office of Financial Management to provide information, facilitation, and coordination services to help streamline the permitting process.

Summary: The definition of industrial projects of statewide significance is expanded to include projects with projected employment positions of 50 or greater in rural counties and 100 or greater in urban counties. An application for designation as an industrial project of statewide significance must be submitted to CTED. The application includes a letter of approval from jurisdictions where a project is located.

Counties and cities with projects are to enter into agreements with the Office of Permit Assistance and project managers of industrial projects of statewide significance to expedite the processes necessary for the design and construction of projects.

The Office of Permit Assistance is to provide facilitation and coordination services to industrial projects of statewide significance.

Votes on Final Passage:

Senate	48	0
House	96	0

Effective: July 27, 2003

ESSB 5766
C 246 L 03

Providing businesses with notice of certain administrative rules.

By Senate Committee on Government Operations & Elections (originally sponsored by Senators Roach, Reardon, Kastama, Stevens, McCaslin, Esser, McAuliffe, Rasmussen and Hale).

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

Background: The primary institutional means for providing notice to the public of agencies' rule-making activities is the Washington Administrative Code published by the Code Reviser in the Washington State Register. Persons interested in receiving copies of particular rule-making documents may request them from the relevant agency's rules coordinator. There are some sections of the Administrative Procedure Act that state that all persons who request a rule-making document from an agency shall be provided with one.

All rules proposed by an agency must either provide a Small Business Economic Impact Statement (SBEIS) or provide an explanation why the SBEIS was not prepared. The SBEIS process requires the agency to provide notice of a proposed rule to small business either by direct notification to known interested small businesses or trade organizations or by notification to relevant trade journals.

Summary: For some newly effective rules, the departments of Employment Security, Labor and Industries, Ecology and Natural Resources must notify businesses affected by the rule of the rule's requirements, how the business can appeal the rule and how to get help in complying with the rule. This requirement applies from before, or up to 200 days after, the rule's effective date and only applies to rules that impose additional requirements on businesses, the violation of which subjects a business to penalties or sanctions. The requirement does not apply to emergency rules. These agencies must develop a process to make this communication.

Votes on Final Passage:

Senate	48	0
House	93	0

Effective: July 27, 2003

SB 5769
C 372 L 03

Authorizing bond authority for regional transportation investment districts.

By Senators Horn, Haugen, Swecker, Esser and Kline.

Senate Committee on Highways & Transportation
House Committee on Transportation

Background: Regional Transportation Investment Districts (RTIDs) were authorized under Chapter 56, Laws 2002 (E2SSB 6140) for the purpose of planning, selecting, funding and implementing projects identified to meet the region's transportation and land use goals. Various revenue options were provided for the funding of such projects, including the authority to enter into agree-

ments with the state or other local governments to pledge taxes or other revenues of the district for the purpose of paying principal and interest on bonds issued on behalf of the RTID. An RTID was not provided to issue long-term bonds on its own behalf, however, except for debt of no longer than two years duration.

Article 8, Section 6 of the State Constitution establishes limits on the amount of debt that a municipal corporation may incur. The debt of a municipal corporation may not exceed 1 and one-half percent of the value of taxable property within the boundaries of the municipal corporation without the assent of three-fifths of the voters. In no case may municipal corporation debt exceed 5 percent of the value of taxable property within the boundaries of the corporation. Debt that is secure by the revenues or tolls derived from the operation of a facility is not included for the purpose of calculating the municipal debt limit.

Summary: Regional Transportation Investment Districts are authorized to enter into debt up to amounts provided by the constitutional limitations. Revenue bonds may be issued by the district without submission to the voters of the district. Once construction of projects in the RTID plan has been completed, district revenues may only be used to make payments on the outstanding bonds, make payments required under pledging agreements, and provide for the maintenance and operations of toll facilities as may be required by toll bond covenants.

Votes on Final Passage:

Senate	48	1
House	93	5

Effective: July 27, 2003

ESSB 5776
C 393 L 03

Providing an appeal process for state agency and local government permit decisions for economic development projects.

By Senate Committee on Land Use & Planning (originally sponsored by Senators Doumit, Morton, Hargrove, Mulliken, Rasmussen, Swecker, Haugen, Zarelli, Reardon, Parlette, McAuliffe and Winsley).

Senate Committee on Land Use & Planning
Senate Committee on Ways & Means
House Committee on State Government
House Committee on Appropriations

Background: Under current statutes, numerous environmental and land use permits may be required from state and local agencies for a single development project proposal. Each permit requires a separate application, review process, and decision. Separate statutory provisions may apply for appeal of the final permit decisions. In 2002, the Legislature found that a coordinated permitting process, subject to the applicable environmental laws, is vital to the state's economic well-being. The 2002 Legislature created a permit coordination option for project applicants, administered by the Office of Permit Assistance by written agreement with the project applicant and participating state agencies. Existing permit decision and appeal procedures are unaffected by the project permit coordination.

Summary: A uniform, expedited, and coordinated permit appeal process is authorized for qualifying projects (1) located in counties designated as distressed areas and rural natural resources impact areas as defined in statute, (2) providing at least 30 full-time jobs, and (3) designated as qualifying projects by the Office of Permit Assistance. Certain permits, including certifications by the Energy Facility Site Evaluation Council and local health districts, are exempt. If applicable, this appeal process is the exclusive process for review of final state agency and local government environmental and land use permit decisions on the qualifying project. All existing environmental and land use permit review processes and standards are unaffected and remain intact.

A project applicant must request designation as a qualifying project by the office within 30 days after the first permit application for the project after the effective date of the act, but no later than December 31, 2010. The office must make a determination on the request, and, if designated, must notify permit agencies and the public of the designation.

Permit decision appeals for a qualifying project are consolidated before a single board within the Environmental Hearings Office. Board membership is constituted as the Shorelines Hearings Board. Board procedures, timelines, and standards of review are set forth. If the agency permit decision included a quasi-judicial hearing, then the board review is on the agency decision record. If no hearing was included, then the board conducts a de novo review of the permit decision.

Appeals from the board decision on the qualifying project are filed in superior court for Thurston County, but the superior court must certify the appeal for direct review by the Court of Appeals (with jurisdiction for the county in which the project is located) if the superior court makes certain factual determinations as set forth in the bill.

Votes on Final Passage:

Senate	45	4	
House	88	8	(House amended)
Senate	31	17	(Senate concurred)

Effective: May 20, 2003

ESSB 5779
C 227 L 03

Preserving sibling relationships for dependent children.

By Senate Committee on Children & Family Services & Corrections (originally sponsored by Senators Stevens, Hargrove, Kohl-Welles, McAuliffe, Winsley and Oke).

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

Background: A dependent child is one who has been abandoned, is abused or neglected, or has no parent capable of adequately caring for him or her. The Department of Social and Health Services must coordinate services for child dependency cases. This includes developing service plans and activities to address the family's needs, and ensuring that dependent children who have siblings have regular visits with them. When a court determines that a child should be removed from a home because he or she is dependent, the court must consider whether it is in the child's best interest to have contact with siblings. However, there has been no legal requirement that the court consider placing a child with siblings if they are also placed out of the home. If parental rights are terminated, there has been no statutory requirement that the court consider sibling status. It is not unusual for siblings to be placed apart. Advocates in this area speak of the trauma of being removed from an abusive home as being secondary to that of being separated from siblings.

Summary: It is the intent of the Legislature to recognize the emotional ties siblings form without creating legal obligations that do not already exist. When ordering a child removed from the home in a dependency proceeding, the court presumes that placement, contact or visits with siblings who are also placed out of the home is in the best interest of the child, unless to do so would jeopardize the child's health, safety or welfare. In the event that parental rights are terminated, the court must note the sibling status in the termination order. If the court has ordered a termination petition to be filed, reasonable efforts must be made to ensure contact and visitation between siblings, unless it is not in the best interest of the child. If the child is placed with the Department of Social and Health Services, the department must take reasonable steps to ensure that the child maintains relationships with siblings.

Votes on Final Passage:

Senate	48	1	
House	93	0	(House amended)
Senate	43	0	(Senate concurred)

Effective: July 27, 2003

SSB 5780
C 90 L 03

Revising method for making distributions under the municipal criminal justice assistance account.

By Senate Committee on Children & Family Services & Corrections (originally sponsored by Senators Stevens, Hargrove and Shin; by request of Department of Community, Trade, and Economic Development).

Senate Committee on Children & Family Services & Corrections
House Committee on Appropriations

Background: Funds from the municipal criminal justice assistance account are distributed to cities using a variety of criteria including crime rate, population, and program requirements. The funds are to be used for specific purposes related to criminal justice such as crime prevention, child abuse, and domestic violence. A specific percentage of the overall fund is earmarked for specific programs within the cities receiving funds. The actual distribution of the funds are based on a funding request from the cities to the Department of Community, Trade, and Economic Development (CTED).

Summary: There is no longer a requirement for a funding request from the cities to CTED. The portion of the fund going to the cities for some of the specific purposes is distributed on a per capita basis. The cities then decide how the funds will be used within the acceptable criteria.

Votes on Final Passage:

Senate	48	0
House	93	0

Effective: July 27, 2003

SB 5783
C 168 L 03

Implementing the streamlined sales and use tax agreement.

By Senators Finkbeiner and Regala; by request of Department of Revenue.

Senate Committee on Ways & Means
House Committee on Finance

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 7,500 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. Physical presence is constituted by property, inventory, or employees 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 nation-wide. The effort is known as the Streamlined Sales Tax Project. The project seeks to incorporate uniform definitions within tax bases, simplify audit and administrative procedures, and explore emerging technologies to reduce the burdens of tax collection, for both main street and remote sellers. The Department of Revenue (Department) participates in this project under legislation enacted in 2002.

On November 12, 2002, members of the Streamlined Sales Tax Project voted to approve the Streamlined Sales and Use Tax Agreement (Agreement). The Agreement provides model tax rules designed to provide a "cooperative, simplified system for the application and administration of sales and use taxes." The Agreement does not invalidate or amend any provision of state law. Instead, the Agreement contemplates individual states amending their own sales and use tax laws to bring them into conformance with the Agreement. Washington already conforms with several major provisions of the Agreement, which include: a uniform state and local tax base; a single state sales and use tax rate; a single local sales and use tax rate per taxing jurisdiction; and state administration of both state and local sales and use taxes.

Washington does not conform, however, with all of the Agreement's provisions. For some issues, Washington will have to change what is subject to tax in order to conform with the Agreement.

Summary: Washington State sales and use tax statutes are modified to conform with many of the Agreement's provisions. These modifications relate either to defining taxable items or to administrative provisions. Several of the definitions have fiscal impact in Washington, as they modify the scope of what is taxable, while the other definitions and the administrative provisions either will have no fiscal impact or the impact is offset by a new statutory exemption.

Definitions. The changes in definition to the following terms WILL have fiscal impacts:

1. "Sales price," "selling price," "purchase price," "value of article used," and "value of service used" are defined as equivalent terms. Current Washington law does not include delivery charges in the purchase price of repair services subject to use tax, but delivery charges are included under this new definition.
2. "Food and food ingredients," "prepared food," and "baked goods" -- Bottled water is currently taxed. The Agreement's definition of "food" exempts bottled water.
3. "Soft drinks" – Under the definition of "soft drink," beverages that contain less than 50 percent fruit juice are taxed.
4. "Prescription," "prosthetic device," "durable medical goods," and "mobility enhancing equipment" – Eyeglass frames purchased with prescription lenses are currently taxed, but will be exempt. Additionally, purchases of some orthotic items (slings), as well as repair parts, are currently taxed but will be exempt. All other items under these definitions will remain as they are currently treated under Washington law.

The changes in definition to the following terms will NOT have fiscal impacts:

"Delivery charges," "lease or rental," "computer," and "computer software." In addition, "prewritten computer software" is substituted for "canned software."

The changes in definition to the following terms would have fiscal impacts, but sections are included in the bill providing exemptions, to maintain the effect of current law. Therefore, these changes will NOT have fiscal impacts:

1. "Tangible personal property" includes steam and electricity, currently not taxed in Washington state, but a section is included in the bill to exempt them.
2. "Dietary supplement" – Purchases of dietary supplements are currently taxed, while purchases made pursuant to a prescription are exempt from tax. A separate statute is created to maintain the exempt status of dietary supplements purchased by prescription.
3. "Over-the-counter drug" and "drug" are defined and their exemptions are modified to reflect the new definitions.

Administrative Provisions. These provisions all adjust statute, yet only some change current practice, and none changes revenues or expenditures significantly.

1. A prohibition on independent sales and use tax audits by local governments on sellers registered under the Agreement.
2. The method of rounding fractional amounts of sale and use tax.
3. Bad debt credit provisions.
4. A local sales and use tax rate increase imposed on services applies to the first billing period starting on or after the effective date of the increase. A local sales and use tax rate decrease imposed on services applies to bills rendered on or after the effective date of the decrease. The Department is required to notify catalog sellers 120 days in advance of any boundary or local sales and use tax change. The Department must provide all other sellers with 60 days advance notice of any local sales and use tax change. Sellers who have not received timely notice

of rate and boundary changes due to actions or omissions of the Department are not liable for the difference in the amount due until they have received the appropriate period of notice. Purchasers are still liable for any uncollected amounts of tax.

5. A purchaser's cause of action against the seller for over-collected sales or use tax does not accrue until the purchaser has provided written notice to the seller and the seller has 60 days to respond. The notice to the seller must contain the information necessary to determine the validity of the request.
6. The Department may not attribute nexus with Washington to any seller solely by virtue of the seller registering under the streamlined sales and use tax agreement.
7. Under the Agreement, sellers cannot be required to administer exemptions that have limits or caps on exemption amounts. Washington has sales and use exemptions for items incorporated into a prototype for aircraft parts, auxiliary equipment, or modifications. These exemptions are capped at $100,000 per person per year. These exemptions are changed so that the sellers collect tax on these items, but the purchaser can request a refund of tax from the Department.
8. The process of determining where a transaction is taxable is commonly referred to as "sourcing." The telecommunications sourcing rules are consistent with current law, except for private communication services and "post-paid" calls that are paid with credit cards or billed to third numbers. A sale of private communication service is sourced to the jurisdiction in which the customer channel termination points are located. A sale of post-paid calling service is sourced to the origination point of the telecommunications signal. There are very few transactions that will be affected by the private communication and post-paid sourcing rules.
9. Sales and use taxes must be uniform within a jurisdiction, with the exceptions of (a) the use tax on natural gas or manufactured gas, (b) solid waste collection tax, (c) local public facility tax, (d) local lodging tax, and (e) the sale, rental, lease, or use of motor vehicles, aircraft, watercraft, modular homes, manufactured homes, or mobile homes.

Other. The Department must conduct a study of the fiscal impact on local jurisdictions of the sourcing provisions. The Department must use, and regularly consult, a committee composed of city and county officials to assist with the study. Committee responsibilities include identification of elements of the study including mitigation options for jurisdictions negatively impacted by the sourcing provision. The Department must report the results of the study, which at minimum must include the identification of the fiscal impacts on local governments of the sourcing provisions, by December 1, 2003, to the Governor and fiscal committees of the Legislature.

Votes on Final Passage:

Senate	47	1	
House	83	14	(House amended)
Senate	47	1	(Senate concurred)

Effective: July 27, 2003
January 1, 2004 (Sections 301-305)
July 1, 2004 (Sections 101-104, 201-216, 401-412, 501, 502, 601-604, 701-704, 801, 901 and 902)

ESSB 5785
C 377 L 03

Concerning the use of a nonhighway vehicle on certain nonhighway roads or trails that are restricted to pedestrian or animal travel.

By Senate Committee on Parks, Fish & Wildlife (originally sponsored by Senators Parlette, Doumit, Benton, Mulliken, Schmidt and Honeyford).

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

Background: State law governing use of off-road vehicles applies on lands under federal, as well as state, jurisdiction. Existing state law has been interpreted as preempting federal agencies from allowing use of off-road vehicles on some roads that the agencies would otherwise open to off-road vehicles under federal regulations.

Summary: Use of off-road vehicles is a traffic infraction on nonhighway roads or trails, if these are restricted to pedestrian or animal travel.

Votes on Final Passage:

Senate	49	0
House	97	0

Effective: July 27, 2003

SSB 5786
C 152 L 03

Clarifying the scope of industrial uses allowed in rural areas under GMA.

By Senate Committee on Land Use & Planning (originally sponsored by Senators T. Sheldon and Mulliken).

Senate Committee on Land Use & Planning
House Committee on Local Government

Background: Under the Growth Management Act (GMA), comprehensive plans are required to include a rural element, which may allow for "limited areas of more intensive rural development" (LAMIRDs). There

are three types of LAMIRDS authorized by the 1997 amendments to the GMA: (1) existing commercial, industrial or mixed-use areas; (2) intensification or new development of small-scale recreational or tourist uses; and (3) intensification or new development of isolated cottage industries and isolated small-scale businesses.

The first type of LAMIRD, otherwise known as "type d1," consists of infill, development or redevelopment of existing commercial, industrial, residential, or mixed-use areas. The area or use must exist on July 1, 1990, or the date initially required to plan under the GMA.

The Western Washington Growth Management Hearings Board (WWGMHB) has held that an area that combines industrial and commercial areas is a mixed-use area. Industrial areas are exempt from the GMA requirement to be "principally designed" to serve the existing and projected rural populations. According to the WWGMHB, this rural population service exemption only applies to industrial areas and not to industrial uses within a mixed-use area.

There are concerns that the board's narrow interpretation of the types of uses that may be lawfully zoned within a rural area has caused particular hardship in counties suffering from loss of logging and agriculture due to economic forces. Such counties have a need to find new sources of economic sustenance in order to achieve the goal of providing economic opportunity to those areas not enjoying a fair share of economic growth.

Summary: The Growth Management Act is amended to expressly allow industrial uses in both industrial areas and mixed-use areas within a "type d1" LAMIRD. Industrial uses are not required to be principally designed to serve the existing and projected rural population in order to be lawfully zoned within a "type d1" LAMIRD and thus, industrial uses are treated the same as industrial areas.

Votes on Final Passage:

Senate	49	0
House	82	0

Effective: July 27, 2003

SSB 5787
C 210 L 03

Protecting water quality.

By Senate Committee on Natural Resources, Energy & Water (originally sponsored by Senators Morton, Prentice, Hale, Jacobsen, Kohl-Welles, Hewitt, Doumit and Horn).

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

Background: The Department of Ecology is the state water pollution control agency responsible for implementing all state and federal water pollution control laws and regulations. This includes providing certification that permits issued by federal agencies comply with water quality standards, according to section 401 of the federal Clean Water Act.

Summary: For purposes of issuing water quality certifications under section 401 of the federal Clean Water Act and administrative orders under state law, the Department of Ecology is authorized to require use of a valid and reliable leaching test included in regulations adopted under the state Model Toxics Control Act to evaluate the suitability of fill material that will be placed in waters of the state. Any such requirement by the department in the past is ratified and approved as a valid and reliable method for determining that concentrations of chemicals in fill material do not pose an unacceptable risk of violating water quality standards and is in effect as imposed by the department for all work not completed by June 1, 2003. The Department of Ecology is directed to identify and assess the effectiveness of leaching tests for evaluating impacts of imported fill material, and to report the test list and any methodology gaps to the Legislature by December 31, 2003.

Votes on Final Passage:

Senate	37	12	
House	61	25	(House amended)
Senate	38	10	(Senate concurred)

Effective: May 9, 2003

SSB 5811
C 226 L 03

Requiring greater opportunities for involvement of birth families in foster care.

By Senate Committee on Children & Family Services & Corrections (originally sponsored by Senators Hargrove, Stevens and McAuliffe).

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

Background: Children placed in foster care often have little or no contact with their birth family for the duration of their placement. They rarely see interaction between their foster family and birth family, and yet the majority of children placed in foster care are returned to their birth family.

Summary: It is the intent of the Legislature to sanction a connection between the birth family and foster family. Foster parents are encouraged to provide input to social workers and birth parents about the child placed in their care; to mentor birth parents by modeling appropriate,

healthy parenting behaviors; and to assist in visitation with birth families.

Votes on Final Passage:

Senate	45	3	
House	83	0	(House amended)
Senate	43	0	(Senate concurred)

Effective: July 27, 2003

SSB 5824
C 209 L 03

Allowing rural fire protection districts to contract with cities for ambulance services and impose a monthly utility service charge on each developed residential property located in the fire protection district.

By Senate Committee on Government Operations & Elections (originally sponsored by Senators Parlette and Horn).

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

Background: When a city or town determines that the city or town, or a substantial portion thereof, is not adequately served by existing private ambulance service, the city or town may provide for the establishment of a system of ambulance service to be operated as a public utility of the city or town.

Summary: A rural fire protection district can enter into a contract with a contiguous city allowing the city to furnish ambulance services to the district. The contract cannot provide for the establishment of ambulance service that would compete with any existing, private ambulance service. A rural district is one where the population density of the entire district is ten or fewer persons per square mile.

The district may impose a monthly utility service charge on each developed residential property located in the district and served by the contract in an amount equal to the amount imposed by the city on similar city developed residential property. Developed residential property includes single-family residences, apartments, manufactured homes, mobile homes, and trailers.

The district may contract with any contiguous city or any other governmental entity for the billing and collection services related to the monthly utility service charge. A city providing ambulance services to a district may charge a reasonable rate to individuals actually using the services.

Votes on Final Passage:

Senate	49	0
House	97	0

Effective: July 27, 2003

SSB 5829
C 258 L 03

Providing for the registration of nursing technicians.

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Deccio, Thibaudeau and Winsley).

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

Background: A nursing technician is defined in rule as a nursing student currently enrolled in an approved nursing program and employed for the purpose of giving help, assistance, and support in the performance of registered nursing services. The purpose of nursing technician positions is to provide an opportunity for students to gain work experience commensurate with their education.

Some licensed nursing homes and hospitals employ nursing technicians. There is concern that the rules exist without proper statutory authority.

Summary: A nursing technician is defined as a nursing student employed in a licensed hospital or nursing home who is currently enrolled in good standing in an approved nursing program and has not graduated, or graduated from an approved nursing program within the past 30 days, or graduated from an approved nursing program within the past 60 days and has demonstrated good cause to the Secretary of Health.

Nursing technicians are authorized to perform specific nursing functions within the limits of their education. They are also prohibited from performing certain tasks, such as administering chemotherapy or scheduled drugs. Nursing technicians may function only under the direct supervision of a registered nurse, who agrees to act as a supervisor and is immediately available to the nursing technician. Employers of nursing technicians must train both the nursing technicians and the supervising registered nurses as to the provisions of the law. The nursing program must verify which specific nursing functions the nursing technicians are qualified to perform. Nursing technicians are responsible for their specific nursing function.

A new registered health care profession is created. In order to practice or hold oneself out as a nursing technician, such a person must register with the Secretary of Health and pay the appropriate fee. Nursing technicians are also added to those health professions regulated by the Uniform Disciplinary Act.

The Department of Health is authorized to investigate complaints of violations of employer use of nursing technicians in hospitals. The Department of Social and Health Services is authorized to investigate complaints of employer use of nursing technicians in nursing homes.

The Washington State Nursing Care Quality Assurance Commission is authorized to adopt rules imple-

menting the procedural requirements and fees for renewal of the registration.

Votes on Final Passage:

Senate	48	0	
House	84	0	(House amended)
Senate	43	0	(Senate concurred)

Effective: May 12, 2003

SB 5865
C 376 L 03

Including recreation facilities under certain public facilities districts' authority.

By Senators B. Sheldon and Oke.

Senate Committee on Parks, Fish & Wildlife
House Committee on Trade & Economic Development

Background: A public facilities district may be created in any county by resolution of the county legislative authority. Public facilities districts are governed by a board of directors appointed by the county and largest city in the county. Districts formed prior to 2002 may impose a .33 percent sales tax that is deducted from the state sales tax and is not an increase to taxpayers. Public facilities districts also may levy a .2 percent sales tax and a 2 percent lodging tax if approved by a majority of voters in the district.

Public facilities districts are authorized to acquire, construct, maintain, and operate sports facilities, entertainment facilities, convention facilities, or regional centers.

Summary: In addition to existing authorities, public facilities districts formed after January 1, 2000, may acquire, construct, maintain, and operate recreation facilities other than ski areas.

Votes on Final Passage:

Senate	39	10	
House	82	3	(House amended)
Senate	26	16	(Senate concurred)

Effective: July 27, 2003

SSB 5868
C 367 L 03

Releasing driving abstracts of prospective volunteers.

By Senate Committee on Highways & Transportation (originally sponsored by Senators Brown, West, Sheahan and Kohl-Welles).

Senate Committee on Highways & Transportation
House Committee on Transportation

Background: Currently, the Department of Licensing (DOL) may provide certified abstracts of driving records covering three years or less to prospective or current insurance companies upon request. Certified abstracts of driving records covering five years or less may be given to state-approved alcohol/drug assessment or treatment agencies, with information on additional alcohol-related offenses from no more than ten years. Certified abstracts of full driving records must be provided, upon proper request, to the driver, current employers or their agents, prospective employers or their agents, city and county prosecuting attorneys, and an employee or agent of a transit authority checking volunteer vanpool drivers for risk assessment and insurance needs.

Summary: Upon proper request by a volunteer organization, DOL must provide a certified abstract of the full driving record of an individual who has submitted an application for a position that could require the transportation of children under 18 years of age, adults over 65 years of age, or physically or mentally disabled persons. The release of the abstract requires a statement signed by: (1) the volunteer or prospective volunteer; and (2) the volunteer organization. A volunteer organization may only use the certified abstract to determine whether the individual should be allowed to operate a commercial vehicle, school bus, vehicle for a volunteer organization for purposes of transporting children, adults over 65, or disabled persons.

Votes on Final Passage:

Senate	46	0
House	84	2

Effective: July 27, 2003

ESSB 5889
C 325 L 03

Concerning a livestock nutrient management program.

By Senate Committee on Agriculture (originally sponsored by Senators Swecker and Rasmussen).

Senate Committee on Agriculture
House Committee on Agriculture & Natural Resources
House Committee on Appropriations

Background: In early 2003, the Environmental Protection Agency adopted rules that affect how specified animal feeding operations are to be regulated for the purposes of federal water quality laws.

In 1998, the State of Washington enacted the Dairy Nutrient Management Act that required dairy farms to develop plans to protect water quality by July 1, 2002. These plans are required to be implemented by December 31, 2003. Larger feed lots currently hold National Pollution Discharge Elimination System (NPDES) permits. The current program in Washington State is administered by the Department of Ecology.

Summary: The Legislature intends that there be a fully functioning state program for confined animal feeding

operations by 2006 and that a single program apply to all livestock sectors. The program should develop reasonable financial assistance, educational and technical assistance, and provide for periodic inspection and enforcement.

To achieve this, a committee is established to examine the recently adopted federal regulations and to develop a program to be administered by the Department of Agriculture that meets the time frames contained in the federal rules. The committee must provide a report to the Legislature by December 1, 2003 that contains the results of its evaluation and draft legislation to initiate the program.

Elements that must be evaluated by the committee include:

- a process for adopting standards and developing plans that meet these standards;
- a process to transition current NPDES permits into the new program; and
- a determination of what other institutional relationships are needed or desirable, including whether any functions are to be performed by conservation districts.

The draft legislation must include:

- the statutory changes including a time line to phase in the program that will comply with the minimum requirements of federal and state water quality laws;
- the statutory changes necessitated by the transfer of the Dairy Nutrient Management Act from the Department of Ecology to the Department of Agriculture;
- continued inspection of dairy operations at least once every two years;
- an outreach and education program; and
- annual reporting to the Legislature on the progress for implementing the program.

The Livestock Nutrient Management Program Development and Oversight Committee is created composed of the following representatives:

- the Director of Agriculture, who serves as chair;
- the Director of Ecology;
- the federal Environmental Protection Agency;
- a commercial shellfish grower;
- an environmental organization;
- a tribal government;
- the conservation district association;
- Washington State University;
- three dairy producers;
- two beef cattle producers;
- a poultry producer;
- a feed lot; and
- any other segment determined by the director to be subject to the federal rules.

The committee is staffed by the Department of Agriculture. The department may request staff assistance be assigned by the United States Environmental Protection Agency. The committee must establish a work plan that includes a list of tasks and projected completion date for each task. The committee may establish a subcommittee for each of the major industry segments that is covered by the recently adopted federal rules. Subcommittees must report back to the full committee. The committee takes effect on July 1, 2003, and expires on June 30, 2006.

The Dairy Nutrient Management Program is transferred to the Department of Agriculture effective on July 1, 2003. The transfer includes all powers and duties, records and files, funds and assets, appropriations, and existing contracts and obligations. If apportionment of budgeted funds is required, the Director of Financial Management shall certify the apportionments. The transfer takes effect on July 1, 2003.

The authority of the Department of Ecology to issue water quality permits and take action regarding water quality issues for animal feeding operations and concentrated animal feeding operations after transfer of the dairy nutrient management program to the Department of Agriculture is preserved: (a) unless the Department of Ecology delegates its federal Clean Water Act authority to the Department of Agriculture; and (b) until the delegation receives federal approval.

The Department of Ecology is authorized to delegate its water quality authority (including permits) regarding these animal feeding operations. The Department of Agriculture is required to reach agreement with the director of Ecology on the program elements until the redelegation of authority receives federal approval. Compliance with the state program must achieve compliance with federal and state water quality laws.

Votes on Final Passage:

Senate	37	11	
House	97	0	(House amended)
Senate	39	8	(Senate concurred)

Effective: July 1, 2003 (Sections 2 and 6)
July 27, 2003

2SSB 5890

C 255 L 03

Requiring a report to the legislature on the rule-making process for medical monitoring of agricultural workers.

By Senate Committee on Ways & Means (originally sponsored by Senators Swecker, Rasmussen and Parlette).

Senate Committee on Agriculture
Senate Committee on Ways & Means
House Committee on Commerce & Labor

Background: In response to a recent Washington State Supreme Court decision, the Department of Labor and

Industries has initiated rule-making on cholinesterase monitoring.

Summary: The Legislature's interest in tracking the rule-making process for medical monitoring of farm workers who handle cholinesterase-inhibiting pesticides is expressed. The Department of Labor and Industries and stakeholders representing agricultural employers and employees must report to the appropriate legislative committees on the status of rule development and implementation by September 1, 2003, and December 1, 2003.

Votes on Final Passage:

Senate	32	17	
House	98	0	(House amended)
Senate	48	0	(Senate concurred)

Effective: July 27, 2003

SSB 5891
C 326 L 03

Identifying livestock.

By Senate Committee on Agriculture (originally sponsored by Senators Swecker and Rasmussen).

Senate Committee on Agriculture
House Committee on Agriculture & Natural Resources
House Committee on Appropriations

Background: The federal Farm Security and Rural Investment Act of 2002 included requirements for country of origin labeling of many food products. Guidelines were to be issued by the Secretary of the United States Department of Agriculture by September 30, 2002. Regulations are to be promulgated by September 30, 2004. Beef is a covered commodity. Retailers may designate that beef is of United States origin if it is from an animal that is exclusively born, raised, and slaughtered in the United States.

Work is being done by a national task force looking at ways to establish a trace-back system for animal diseases. A national identification work plan has been developed by the National Food Animal Identification Task Force.

The Livestock Identification Program maintains the official recordings of approximately 7,000 livestock brands and protects cattle and horse owners by requiring inspection of livestock and related documents at mandatory inspection points to verify ownership. Approximately seven certified feedlots are licensed and their records are audited by the Department of Agriculture to verify cattle ownership. Approximately 12 public livestock markets are licensed and bonded to ensure producers receive timely and proper payments for livestock sold through those facilities. In 2001, approximately 660,000 cattle and 14,000 horses were inspected under the program.

The program is funded entirely by fees paid by the livestock industry. Most fees are set in statute. For a number of years, there have been issues that relate to the level of service and the distribution of fees among different segments of the industry.

The last major update of the Livestock Identification Program statutes and the public livestock market statutes was in 1959. The last overall updating of the certified feed lot statutes was when it was created in 1971.

Summary: The Department of Agriculture must form an advisory committee representing all major sectors of the livestock industry to which federal country of origin labeling apply. The committee must evaluate what mechanisms may need to be established by the public sector, the private sector, or both to comply with federal country of origin labeling requirements. The advisory committee must also evaluate the National Food Animal Identification Work Plan and any federal food safety and traceability requirements that may come as part of the homeland security measures. While livestock identification laws used for theft prevention are being updated, whether the current system will satisfy or will need to be adapted is to be considered. The Department of Agriculture holds meetings with the industry to develop an efficient strategy for addressing these issues.

Several fees that support the Livestock Identification Program are increased. These include fees paid by public livestock markets and certified feed lots, and fees for brand inspection and brand recording. The statutes for livestock identification, certified feed lots, and public livestock markets are updated.

Votes on Final Passage:

Senate	49	0
House	97	0

Effective: July 1, 2003
January 1, 2004 (Sections 4 and 10)

SB 5893
C 389 L 03

Allowing the fish and wildlife commission to set a transaction fee on recreational documents issued through an automated licensing system.

By Senator Oke.

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

Background: Recreational fishing and hunting license documents are sold by dealers around the state through an automated licensing system. In addition to the cost of a license, a buyer pays a dealer fee and a transaction fee as set by the Fish and Wildlife Commission. The transaction fee, currently set at 9.5 percent of the cost of the license or permit, is paid to the contractor for the automated license system.

Existing law provides express authority to collect a transaction fee on the sale of recreational licenses, but is silent on the sale of other documents issued through the automated license system, such as special hunt permits or raffles.

Summary: The Fish and Wildlife Commission may set a transaction fee for any recreational document issued through the automated licensing system.

Votes on Final Passage:

Senate	49	0
House	94	4

Effective: July 27, 2003

SB 5898

C 390 L 03

Studying recreational boating safety.

By Senators Oke, Doumit, Esser, Jacobsen, Swecker, Fraser and Shin.

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

Background: There is concern that the number of recreational boating accidents, fatalities, and near misses indicates a need for safer practices.

Summary: The Washington State Parks and Recreation Commission and the Boating Safety Advisory Council must research and recommend ways to reduce boating accidents, fatalities, and near misses and to recognize the need for homeland security precautions for boaters.

The commission must investigate a variety of methods for achieving safer boating practices, identify costs and potential sources of funding, and report to the Legislature by January 1, 2004.

Votes on Final Passage:

Senate	48	0
House	93	0

Effective: July 27, 2003

ESSB 5903

PARTIAL VETO

C 378 L 03

Providing additional sentencing alternatives for juvenile offenders.

By Senate Committee on Children & Family Services & Corrections (originally sponsored by Senators Hargrove, Stevens and Carlson).

Senate Committee on Children & Family Services & Corrections
House Committee on Juvenile Justice & Family Law
House Committee on Appropriations

Background: It has been suggested that county juvenile courts may be in a better position to determine and deliver sentences in some juvenile criminal cases by retaining the juveniles in the community rather than sending them to a state-operated facility. Proposed alternatives in the juvenile criminal sentencing structure have been suggested as a way of more effectively and efficiently delivering services to youth convicted of crimes.

Summary: Two sentencing alternatives are created: a suspended disposition alternative, and a mental health disposition alternative.

Under the suspended disposition alternative the court may impose and suspend a standard range disposition upon the condition that the offender comply with one or more local sanctions.

Under the mental health disposition alternative, the court may suspend a disposition of 15 to 65 weeks on the condition that the offender comply with a court-ordered mental health treatment plan.

A community commitment disposition alternative is created as a pilot project.

No Juvenile Rehabilitation Administration (JRA) institution can be closed without the specific authorization of the Legislature. In the event that a JRA institution is closed by the Legislature, the property cannot be operated by the Department of Corrections and cannot be used to incarcerate adult offenders.

The Washington State Institute for Public Policy is directed to develop adherence and outcome standards for measuring the effectiveness of treatment programs referred to in the act.

A task force is created for the purpose of examining the coordination of information, education services, and matters of public safety when juvenile offenders are placed into public schools, following their conviction.

Votes on Final Passage:

Senate	36	11	
House	93	4	(House amended)
Senate			(Senate refused to concur)
House	98	0	(House amended)
Senate	41	7	(Senate concurred)

Effective: July 27, 2003

Partial Veto Summary: The requirement for specific legislation to close a Juvenile Rehabilitation Administration (JRA) institution is removed, as is the prohibition for operating a closed JRA institution to incarcerate adult offenders.

VETO MESSAGE ON SB 5903-S

May 20, 2003

To the Honorable President and Members,
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to section 1, Engrossed Substitute Senate Bill No. 5903 entitled:

"AN ACT Relating to juvenile offender sentences;"

This bill creates two new alternative juvenile sentences, and a pilot project for a third sentencing alternative.

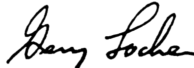
Section 1 prohibits the closure of any Juvenile Rehabilitation Administration institution "without specific authorization in an act of the legislature." It further prohibits the use of any such institution, even if closed by the Legislature, by the Department of Corrections or to incarcerate adult offenders. I share these policy goals of not closing state institutions without the Legislature's concurrence, and not converting juvenile facilities into adult prisons. I have not proposed any such closures or conversions.

However, the Legislature has not yet adopted a budget for the next biennium, and there is no assurance that its next budget, or some future budget, will not make it necessary to consider closures as a means of administering programs within available resources. The Legislature creates the programs and provides the resources, but the executive branch must administer them, and should not be prohibited in permanent law from making difficult decisions that may be necessary.

For this reason, I have vetoed section 1 of Engrossed Substitute Senate Bill No. 5903.

With the exception of section 1, Engrossed Substitute Senate Bill No. 5903 is approved.

Respectfully submitted,



Gary Locke
Governor

ESSB 5908

C 18 L 03 E1

Enacting the building Washington's future act.

By Senate Committee on Ways & Means (originally sponsored by Senators Zarelli, Rossi, Carlson, Kohl-Welles, Fairley, B. Sheldon, Keiser, McAuliffe, West and Winsley).

Senate Committee on Ways & Means

Background: The state of Washington periodically issues general obligation bonds to finance projects authorized in the capital and transportation budgets. General obligation bonds pledge the full faith and credit and taxing power of the state towards payment of debt service. Legislation authorizing the issuance of bonds requires a 60 percent majority vote in both the House of Representatives and the Senate.

Bond authorization legislation generally specifies the account or accounts into which bond sale proceeds are deposited, as well as the source of debt service payments. When debt service payments are due, the State Treasurer withdraws the amounts necessary to make the payments from the state general fund and deposits them into the bond retirement funds. For reimbursable bonds, an equal amount is then transferred to the bond retirement account from the source of the reimbursement.

The State Finance Committee, composed of the Governor, the Lieutenant Governor, and the State Treasurer, is responsible for supervising and controlling the issuance of all state bonds.

Summary: The State Finance Committee is authorized to issue $750 million of state general obligation bonds to finance higher education projects over the next 3 biennia. The stated intention for this new money is added spending for higher education institutions while maintaining the historical funding levels in the underlying capital budget.

Votes on Final Passage:

Senate	48	1
First Special Session		
Senate	44	2
House	86	8

Effective: September 9, 2003

SSB 5912

C 191 L 03

Creating the Produce Railcar Pool.

By Senate Committee on Highways & Transportation (originally sponsored by Senators Mulliken, Haugen, Sheahan, Horn, Parlette, Rasmussen and Spanel).

Senate Committee on Highways & Transportation
House Committee on Transportation

Background: Agricultural products are shipped to market by a variety of methods, including by truck and the Washington Fruit Express.

Summary: The Washington State Department of Transportation (WSDOT) may establish the Washington Produce Railcar Pool to ship fresh and processed produce. To the extent funds are appropriated, the department can purchase, lease, or accept donated refrigerated railcars. WSDOT is authorized to refurbish and remodel the railcars.

A transportation management firm, whose functions will be overseen by WSDOT, may be hired to manage daily operations of the railcars. It must distribute the railcars throughout the state, and in times of excess capacity, it may loan the railcars to other shippers, including those who are out of state. Additionally, railcars may be pooled with those of other railroads, as long as the railroad provides an equal number of cars to Washington shippers.

The Produce Railcar Pool account is created.

Votes on Final Passage:

Senate	48	0	
House	80	18	(House amended)
Senate	45	0	(Senate concurred)

Effective: July 27, 2003

SSB 5933

C 236 L 03

Authorizing cigarette tax contracts between the state and additional Indian tribes.

By Senate Committee on Commerce & Trade (originally sponsored by Senators Hargrove, Franklin and Kline).

Senate Committee on Commerce & Trade
House Committee on Finance

Background: Under federal law, the state cigarette tax of 142.5 cents per pack of 20 cigarettes does not apply to cigarettes sold on an Indian reservation to an enrolled tribal member for personal consumption. However, sales made by tribal cigarette retailers to non-tribal members are subject to the state tax.

In 2001, the Legislature authorized the Governor to enter into contracts regarding the taxation of the sale of cigarettes sold on Indian lands. In general, under a cigarette tax contract authorized by Chapter 43.06 RCW, such sales are subject to a tribal cigarette tax equal to the state cigarette and sales and use taxes, and are exempt from such state taxes. The rate may be phased in over three years, but can be no lower than 80 percent of the state cigarette and sales tax rate.

The Governor was originally authorized to enter into agreements with the Squaxin Island Tribe, the Nisqually Tribe, the Tulalip Tribes, the Mukleshoot Indian Tribe, the Quinault Nation, the Jamestown S'Klallam Indian Tribe, the Port Gamble S'Klallam Tribe, the Stillaguamish Tribe, the Sauk-Suiattle Tribe, the Skokomish Indian Tribe, the Nooksack Indian Tribe, the Lummi Nation, the Chehalis Confederated Tribes, and the Upper Skagit Tribe. Authority was subsequently granted to enter into agreements with the Yakama Nation, the Suquamish Tribe, the Snoqualmie Tribe, and the Swinomish Tribe.

Summary: Authority is granted to the Governor to enter into a cigarette tax contract with the Quileute Tribe, the Samish Indian Nation, and the Kalispel Tribe.

Votes on Final Passage:

Senate	48	0
House	86	0

Effective: July 27, 2003

SB 5935

C 405 L 03

Consolidating fire service mobilization responsibilities within the Washington state patrol.

By Senators Brandland, Oke, Swecker, Hale, Rasmussen, Schmidt and Winsley; by request of Washington State Patrol.

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

Background: The State Fire Protection Policy Board recommends refinements to the Adjutant General as head of the Military Department to improve the state's fire services mobilization plan. This plan is in place and then implemented when a fire, or other emergency, requires a coordinated response from local, regional and state fire protection jurisdictions. The fire mobilization plan is part of the state comprehensive emergency management plan. Emergency Management is a division of the Washington State Military Department.

Summary: The duties for fire mobilization are transferred from the Military Department to the Washington State Patrol. The Military Department consults with the patrol in developing the procedures to facilitate as prompt as possible reimbursement to the jurisdictions and state agencies mobilized pursuant to the state fire mobilization plan.

A state law enforcement mobilization board is created with the responsibility to create a state law enforcement mobilization plan that is consistent with the incident command system. The state board consists of one representative from each of nine regional law enforcement mobilization committees. The regional committees develop regional plans consistent with the incident command system, the state plan and any regional plans already in effect. Each regional plan must be approved by the state board.

The purpose of the state plan is to achieve reimbursement to the host jurisdiction and the law enforcement agencies that are mobilized by command of the Chief of the Washington State Patrol in times of emergency.

Votes on Final Passage:

Senate	49	0	
House	93	0	(House amended)
Senate	48	0	(Senate concurred)

Effective: July 27, 2003

SB 5937

C 55 L 03

Adding to the scenic and recreational highway system.

By Senators Parlette, Jacobsen, Haugen, Sheahan and Shin.

Senate Committee on Highways & Transportation
House Committee on Transportation

Background: The Department of Transportation is directed in statute to develop criteria for assessing scenic byways and appropriate methods for nominations and applications for the designation and removal of the designation of the byways. Any person may nominate a

roadway, path, or trail for inclusion in the program. The department must submit its recommendations to the Transportation Commission. The commission may designate, on an interim basis, state scenic byways. The commission has designated the US 97 Scenic Byway and the Palouse Country Scenic Byway as interim scenic byways. Per statute, the Legislature must approve this designation in order for it to become official.

Summary: The US 97 Scenic Byway and the Palouse Country Scenic Byway are designated as State Scenic Byways.

Votes on Final Passage:

Senate	48	1
House	96	0

Effective: July 27, 2003

ESB 5938
C 56 L 03

Updating financial responsibility laws for vessels.

By Senators Finkbeiner and Esser.

Senate Committee on Highways & Transportation
House Committee on Fisheries, Ecology & Parks

Background: Current law establishes financial responsibility requirements for certain vessels that transport petroleum products, either as cargo or as fuel. The required documentation of financial responsibility must demonstrate that owners or operators of the vessels can cover the actual costs for removal of oil spills, for natural resource damages, and necessary expenses. The financial responsibility requirements for the different types of vessels are as follows:

(1) Barges transporting hazardous substances: the greater of $1 million or $150/gross ton (Department of Ecology (DOE) may lower the financial responsibility requirement for smaller barges based on the quantity of cargo the barge can carry);
(2) Tank vessels carrying oil: $500 million (DOE may lower the financial responsibility requirement for tank vessels meeting certain standards); and
(3) Certain cargo, fishing, and passenger vessels: the greater of $500,000 or $600/gross ton.

Owners or operators of tank vessels satisfy the financial responsibility requirement if they are members of an "international protection and indemnity mutual organization," commonly referred to as a "P&I club," with coverage up to the amounts required by statute.

DOE must deny entry to the waters of the state to any vessel that does not meet the state's financial responsibility requirements.

Summary: The definitions of "hazardous substances" and "oil" are updated and the definition of an "inland barge" is removed and replaced with a definition of "barge."

Fishing vessels are defined, and a specific financial responsibility requirement for these vessels is created as follows: (1) for vessels carrying predominately nonpersistent product, the greater of $133.40 per incident, for each barrel of oil storage capacity, or $1,334,000; and (2) for vessels carrying predominately persistent product, the greater of $400.20 per incident, for each barrel of oil storage capacity, or $6,670,000.

The financial responsibility requirements for other vessels are revised as follows:

(1) Barges transporting hazardous substances: the greater of $5 million or $300/gross ton
(2) Tank vessels carrying oil: $1 billion, after January 1, 2004 (DOE may lower the financial responsibility requirements for smaller tank vessels based on the cargo the vessel can carry); and
(3) Certain cargo or passenger vessels: $300 million.

Owners or operators of cargo or passenger vessels that are members of a P&I club with coverage up to the amounts required by statute satisfy the financial responsibility requirement.

It is unlawful for vessels that do not meet the financial responsibility requirements to enter Washington waters, except when there is a risk of injury to the crew or passengers.

Votes on Final Passage:

Senate	49	0
House	96	0

Effective: July 27, 2003

ESSB 5942
C 143 L 03

Concerning licensing requirements for elevator mechanics and contractors.

By Senate Committee on Commerce & Trade (originally sponsored by Senators Reardon, Hewitt, Prentice and Honeyford).

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

Background: A conveyance is a device used to lift or move passengers or freight, such as an elevator, escalator, dumbwaiter, or moving walk. Persons constructing, installing, relocating or altering a conveyance must be licensed by the Department of Labor and Industries (L&I) under Chapter 70.87 RCW. Constructing, installing, relocating, altering, maintaining or operating a conveyance without a permit or without a license is a misdemeanor.

In 2002, Chapter 70.87 RCW was amended to add licensing requirements for elevator mechanics and elevator contractors. The Director of L&I was also authorized to appoint a five-member elevator safety advisory committee, and to adopt rules that apply to conveyances.

Summary: A regularly employed worker at a manufacturing, industrial, agricultural or similar facility is not required to obtain an elevator mechanic's license in order to maintain most conveyances at the facility. To qualify for this exception, the worker must have been provided training by the employer that ensures (a) the safety of workers, and (b) adherence to published operating specifications of the conveyance manufacturer. Also, if there is an established journeyman training program in an electrical or mechanical trade at the facility, the worker must have attained such journeyman status. This exception to the licensing requirement does not apply to the maintenance or repair of passenger elevators at the facility to which access by the general public is not restricted.

"Elevator maintenance" and other terms are defined.

It is a violation of the Industrial Safety and Heath Act for a manufacturing, industrial, agricultural or similar employer to (a) allow maintenance to be performed on a conveyance by anyone other than a licensed elevator mechanic or an employee authorized by the statue, or (b) not keep proper training and maintenance records. Public agencies are allowed to employ elevator mechanics.

Persons who have performed elevator construction or maintenance work for a conveyance owner or a public agency for at least three years prior to March 2004 may be licensed without an examination.

Alternative licensing requirements are established for persons who install or maintain material lifts. Persons who maintain conveyances located in owner-occupied private residences are exempt from licensing requirements until July 1, 2004.

The membership of the elevator safety advisory committee is specified. The advisory committee is directed to review the regulation of conveyances in private residences, and report its finding to the Legislature by January 1, 2004.

The department must adopt rules, effective on or after July 1, 2004, to implement the licensing provisions of the act, and may establish elevator mechanic license categories by rule.

Votes on Final Passage:

Senate	49	0	
House	98	0	(House amended)
Senate	48	0	(Senate concurred)

Effective: May 7, 2003

SB 5959

PARTIAL VETO

C 188 L 03

Providing access permits for the deployment of personal wireless facilities off limited access highways.

By Senators Esser, Poulsen, Schmidt, Eide, Stevens, T. Sheldon, Reardon and Finkbeiner.

Senate Committee on Technology & Communications
House Committee on Technology, Telecommunications & Energy

Background: A "partially controlled limited access highway" is generally a highway where adjacent property owners have a limited right to enter and exit the highway, sometimes from private driveways or roads. State Route No. 8, west of Olympia, for example, is a partially controlled limited access highway.

The Department of Transportation regulates the roads, called approaches, that connect to a partially controlled limited access highway. For example, the department allows a certain type of approach for single family residences and another type of approach for the operation of farms. When the department allows a certain type of approach, it can only be used for that specific activity. For example, an approach for a single family residence may not be used for commercial traffic.

Wireless telecommunications companies will sometimes lease land on private property that is adjacent to partially controlled limited access highways. While these properties will often have approaches that connect to the adjacent highways, wireless maintenance vehicles are prohibited from using these approaches because they do not fall within the specified activity for the approaches.

Summary: The Department of Transportation must authorize a type of approach to partially controlled limited access highways for the placement of wireless telecommunications facilities. The approach must be by annual permit and the department must set the cost of the permit in rule. The permit may be assigned to contractors and subcontractors and is transferable to a new owner if the permit holder is sold or merged.

An intent section declares that the rapid deployment of personal wireless facilities is critical to public safety, network access, quality of service, and rural economic development. Terms are defined and technical criteria for the approach are specified.

The department must report to the Legislature on the implementation of the permit process by January 15, 2004, and by the first day of the legislative session following the adoption of any increase in the cost of a permit.

Votes on Final Passage:

Senate	47	0	
House	86	0	(House amended)
Senate	46	1	(Senate concurred)

Effective: July 27, 2003

Partial Veto Summary: The intent section is removed.

VETO MESSAGE ON SB 5959

May 9, 2003

To the Honorable President and Members,
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to Section 1, Senate Bill No. 5959 entitled:

"AN ACT Relating to allowing approaches to partially controlled limited access highways for the deployment of personal wireless facilities"

This bill establishes procedures for the Department of Transportation to permit wireless telecommunications facilities to be located along partially controlled limited access highways. This is important legislation that will help expand telecommunications services to underserved areas in our state and promote economic development.

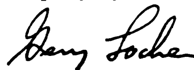
However, Section 1 of this bill would have amended RCW 47.52.001, which is a declaration of state policy to limit access to the highway facilities of the state in the interest of highway safety and for the preservation of the investment of the public in such facilities. The amendment would have created an inflexible exception to this longstanding policy by stating that personal wireless facilities "shall be permitted" along partially controlled limited access highways, apparently without qualification. Insofar as this section can be read to suggest that deployment of personal wireless facilities is inconsistent with the state's interest in highway safety, and that telecommunications deployment should take precedence over it, I am compelled to veto it.

I agree with the Legislature that personal wireless service is a critical part of the state's infrastructure, and I believe that Department of Transportation policy should acknowledge this. However, state policy should also ensure that telecommunications deployment be achieved along state highways without adversely affecting highway safety. For this reason, I believe the current language in RCW 47.52.001, which 'limits' but by no means prohibits access to public highways, is the better statement of policy than that contained in Section 1.

For these reasons, I have vetoed Section 1 of Senate Bill No. 5959.

With the exception of Section 1, Senate Bill No. 5959 is approved.

Respectfully submitted,



Gary Locke
Governor

SSB 5966
C 57 L 03

Increasing the supply of dentists to meet the critical shortage of dental providers in this state and underserved areas.

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Deccio and Winsley).

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

Background: There is concern that there is a shortage of dental providers in Washington hindering access to dental care. It is estimated that half of all practicing dentists will retire over the next decade. The University of Washington School of Dentistry is one of only eight dental schools in the western United States, and the only nearby school for dental students living in Alaska, Idaho, Montana and Wyoming.

There is also concern that licensing restrictions discourage dental providers from coming into this state to practice.

Summary: The Washington State Dental Quality Assurance Commission no longer must determine that another state's licensing standards are substantively equivalent to the standards in Washington. Rather, a dentist licensed in another state may be granted a Washington license without examination if he or she is a graduate of a dental school approved by the commission under current law.

Votes on Final Passage:

Senate	48	0
House	96	0

Effective: July 27, 2003

SB 5970
C 225 L 03

Requiring that the family law handbook be provided when a person applies for a marriage license.

By Senator Hargrove.

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

Background: There is a technical error regarding who receives the family law handbook. A person applying for a marriage license should be given the handbook as opposed to the person who files a marriage certificate.

Summary: The family law handbook is given to an individual who applies for a marriage license under RCW 26.04.140.

Votes on Final Passage:

Senate	47	0
House	84	2

Effective: July 27, 2003

SSB 5974

C 374 L 03

Exercising sound business practices to enhance revenues for Washington State Ferries.

By Senate Committee on Highways & Transportation (originally sponsored by Senators Benton, Haugen, Horn and Oke).

Senate Committee on Highways & Transportation
House Committee on Transportation

Background: The Washington State Ferry System (WSF) may charter its vessels to other parties if WSF runs are not disrupted. The general manager of WSF may approve chartering agreements for vessels as long as WSF service is not disrupted. Charter rates are revised each year and are determined by adding the actual operating costs plus 50 percent of the actual costs. Parties chartering WSF vessels must not enter the pilot house, engine room, or vehicle decks other than for loading or unloading passengers, and all activities must be conducted on the passenger decks. However, those chartering the vessels for the transport of hazardous materials are not limited to using the passenger decks.

Parties may enter into lease agreements and contracts with WSF to use the concessions and space on the ferries, wharves, docks, approaches, and landing.

All income and revenue collected by WSF is deposited into the Puget Sound ferry operations account.

The Washington State Department of Transportation (WSDOT) makes recommendations on fares to the Transportation Commission on an annual basis. WSDOT consults with ferry users on expansion of service and fare changes.

Summary: Chartering Vessels. The Chief Executive Officer of the WSF may approve chartering agreements. Charges for chartering vessels are calculated by adding actual vessel operating costs to a market-rate profit margin. Charter rates are not reviewed annually. Any parties chartering the vessels may use vehicle decks. In establishing charter agreements, WSF must consider the needs of local communities and interested parties. WSF is to use sound business judgement and be sensitive to the interests of existing private enterprises.

Agreements for Parties to Use WSF Properties. Parties have the authority to enter into lease agreements or contracts with WSF to use WSF parking lots, along with space on the ferries, wharves, docks, approaches, and landings. WSF can sell commercial advertising space and licenses to use WSF trademarks. All revenue from commercial advertising, concessions, parking, leases, and contracts must be deposited in the Puget Sound ferry operations account.

Setting Fares and Reporting on New Revenue Performance. When making recommendations to the Transportation Commission on fares, WSDOT may consider the estimated revenue WSF expects to collect from commercial advertisements, parking, contracts, leases, and other sources. However, when revising the schedule of ferry fares or changing the level of ferry service, WSDOT and consulted ferry users do not consider promotional, discount, and special event fares. The Chief Executive Officer may authorize WSF to use promotional, discounted, and special event fares, and the Transportation Commission receives a report on the financial results from these activities.

Public and Private Partnerships. WSDOT must include in the strategic planning and performance assessment process an analysis of: 1) the compatibility of public and private partnerships with WSF's core business; and 2) efforts to maximize nonfarebox revenues and provide benefit to users of WSF facilities. WSDOT must also include an assessment of the need for an open solicitation to identify and select possible public or private partnerships. In addition, selection criteria are identified for instances when WSF decides to pursue an open solicitation.

Votes on Final Passage:

Senate	49	0	
House	97	0	(House amended)
Senate	47	0	(Senate concurred)

Effective: July 27, 2003

ESSB 5977

PARTIAL VETO

C 244 L 03

Requiring the department of transportation to allow the deployment of personal wireless service facilities in state highway rights of way.

By Senate Committee on Technology & Communications (originally sponsored by Senators Esser, Schmidt, Eide, Finkbeiner, Poulsen, Reardon, Stevens, T. Sheldon and Shin).

Senate Committee on Technology & Communications
House Committee on Technology, Telecommunications & Energy

Background: The Department of Transportation manages the rights of way of more than 7,000 miles of highways. The department has developed a model lease agreement for the deployment of wireless telecommunications facilities on department-controlled property, including highway rights of way.

The department currently processes a wireless lease application in 130 days, on average. The maximum term for a lease is five years, with an option to renew for three additional five-year increments. Leasing rates range

from $300 to $1,700, with most leases within $1,000 to $1,400.

According to the department, there are 15 active wireless leases on highway rights of way.

Summary: The Department of Transportation must establish a process for issuing leases for the use of highway rights of way by wireless telecommunications companies. A lease must require co-location of telecommunications equipment in the right of way whenever practicable. A lease must also include the right to directly access a wireless site during nonpeak hours for the construction and maintenance of a wireless facility if public safety is not adversely affected and the access is consistent with federal highway administration approval. In addition, a lease may allow direct access to a wireless site at any time for the construction of a wireless facility if there is no substantial interference with the flow of traffic during peak periods and public safety is not adversely affected.

The department must process a complete lease application within 60 days, unless the applicant agrees to a different time period. If the department denies a lease application, it must provide a reason that is supported by substantial evidence contained in a written record. Applications that have been submitted before the effective date of this act may be handled under the new process described in this act, with the consent of the applicant.

The cost of a lease is limited to the fair market value of the location and the direct administrative expense in processing the application. An arbitration process is established for resolving disagreements over the cost of the lease. All lease money paid to the department under this section must be deposited in the motor vehicle fund.

An effective date is provided, terms are defined, and a provision is added to clarify that leases for wireless telecommunications facilities are not utility franchises. Two intent sections declare that: (1) the rapid deployment of personal wireless service facilities is critical to public safety, network access, quality of service, and rural economic development; and (2) the use of highway rights of way must be permitted for the deployment of personal wireless service facilities.

The department must report to the Legislature on the implementation of the new lease process by January 15, 2004, and on the status of the lease process by January 15, 2005.

Votes on Final Passage:

Senate	44	5	
House	87	0	(House amended)
Senate	42	4	(Senate concurred)

Effective: July 27, 2003

Partial Veto Summary: The intent sections are removed.

VETO MESSAGE ON SB 5977-S

May 12, 2003

To the Honorable President and Members,
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to sections 1 and 4, Engrossed Substitute Senate Bill No. 5977 entitled:

"AN ACT Relating to the use of state highway rights of way for the deployment of personal wireless service facilities;"

This bill establishes procedures for the Department of Transportation to permit siting of wireless telecommunications facilities within state highway rights of way. This is important legislation that will help expand telecommunications services in our state and promote economic development.

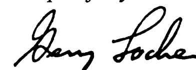
Section 4 of this bill would have amended RCW 47.52.001, which is a declaration of state policy to limit access to the highway facilities of the state in the interest of highway safety and for the preservation of the investment of the public in such facilities. The amendment would have created an exception to this longstanding policy by stating that the use of rights of way of limited access facilities 'must be permitted' for the deployment of personal wireless facilities, apparently without qualification. Section 1 contains intent language that is largely the same as that contained in section 4. Because these sections can be read to suggest that deployment of personal wireless facilities is inconsistent with the state's interest in highway safety, and that telecommunications deployment should take precedence over it, I am compelled to veto them.

I agree with the Legislature that personal wireless service is a critical part of the state's infrastructure, and I believe that Department of Transportation policy should acknowledge this. However, state policy should also ensure that telecommunications deployment be achieved along state highways without adversely affecting highway safety. For this reason, I believe the current language in RCW 47.52.001, which 'limits' but by no means prohibits access to public highways, is the better statement of policy than those contained in sections 1 and 4 of this bill.

For these reasons, I have vetoed sections 1 and 4 of Engrossed Substitute Senate Bill No. 5977.

With the exception of sections 1 and 4, Engrossed Substitute Senate Bill No. 5977 is approved.

Respectfully submitted,



Gary Locke
Governor

SB 5989
C 58 L 03

Representing pilots on the board of pilotage commissioners.

By Senators Haugen, Horn and Jacobsen.

Senate Committee on Highways & Transportation
House Committee on Transportation

Background: Pilots are responsible for the navigation of U.S. and foreign flag vessels in Puget Sound and Grays Harbor.

The Board of Pilotage Commissioners' (BPC) primary functions relate to pilot licensing and regulation. The BPC is responsible for the administration of pilot qualifications and performance standards, training and education requirements; setting pilotage tariffs; and monitoring the pilot and shipping industry to ensure adherence to the Pilotage Act.

The BPC is composed of the following: the Assistant Secretary of Marine Transportation of the Washington State Department of Transportation (or designee); the Director of Ecology (or designee); and seven members appointed by the Governor and confirmed by the Senate. Two of the appointees must be interested in pilotage, maritime safety, and marine affairs, with broad maritime experience. The remaining appointees are to be as follows:

- two active pilots (one from the Puget Sound pilotage district, one from the Grays Harbor pilotage district);
- two shippers or representatives of passenger vessels (one American, one foreign); and
- an environmental organization representative concerned with marine waters.

There are 50 pilots in the Puget Sound Pilotage district and two in the Grays Harbor Pilotage District.

Summary: Membership on the BPC is altered so that, in terms of representing pilotage districts on the BPC, one pilot must be from the Puget Sound pilotage district and the other may be from either the Grays Harbor pilotage district or the Puget Sound pilotage district.

Votes on Final Passage:

Senate	49	0
House	96	0

Effective: July 27, 2003

ESSB 5990

C 379 L 03

Changing times and supervision standards for release of offenders.

By Senate Committee on Children & Family Services & Corrections (originally sponsored by Senators Hargrove, Stevens, McAuliffe, Carlson, Regala, Parlette, Rasmussen and Winsley).

Senate Committee on Children & Family Services & Corrections
House Committee on Appropriations

Background: "Earned release" means the amount of time by which an offender can reduce the amount of time he or she is confined. It is earned by successful participation in required work, education, treatment, and other programming and by appropriate behavior. It can be lost in a disciplinary hearing for infractions or by a refusal to participate in required programming. Earned release time is not discretionary for the Department of Corrections (DOC). Maximum amounts of earned release are set in statute. Under current law, offenders convicted of a serious violent offense or a sex offense that is a class A felony are eligible for a maximum of 15 percent earned release time. All other offenders are eligible for a maximum of 33 percent earned release time.

Community custody, community placement, and community supervision are terms to describe different kinds of supervision in the community. Whether a sentence includes a requirement for supervision in the community depends on the crime. In 1999, the Offender Accountability Act (OAA) expanded the list of crimes subject to supervision in the community to all sex offenses, violent offenses, crimes against persons, and drug offenses. Offenders convicted of other crimes are not supervised after release from prison. The OAA also eliminated the use of community placement and community supervision for crimes committed after July 1, 2000. Community custody applies to these crimes. Under community custody, DOC has the opportunity to require conditions of supervision in addition to those required by the court.

In the case of felony offenders sentenced to jail, the current law permits the court to add a term of community custody up to one year onto any sentence, including those that would not be eligible for community custody if the offender were sentenced to prison.

The OAA also required DOC to use a validated risk assessment tool and to move from a policy of trying to spread supervision resources equally over all offenders to a policy of focusing resources on the offenders in the highest risk management categories. The current practice sorts offenders into four risk management categories from "A" (greatest risk) to "D" (least risk). Under the OAA, most DOC supervision resources go to offenders in risk management categories "A" and "B," who may also have an interdisciplinary team. Offenders in risk management categories "C" and "D" usually check in with their community corrections officer electronically. Those offenders classified as "C" or "D" who are sentenced to court-ordered treatment under the special sex offender sentencing alternative, the drug offender sentencing alternative, and the drug sentencing reform act of 2001 are supervised with regard to their court ordered treatment. Otherwise, offenders classified as "D" are actively supervised only if a violation of a release condition is brought to the attention of the department.

No changes to the maximum terms of earned release or to which offenders will be supervised in the community may be made without statutory change by the Legislature.

Under current law, DOC both bills offenders with outstanding legal financial obligations and engages in collections efforts related to those obligations. Some county clerks have engaged in active collections efforts with a significant degree of success, resulting in

increased victim restitution payments and in increases in the funds to both state and counties. During the Legal Financial Obligations Work Group in the 2002 interim, the county clerks raised the possibility of taking a more comprehensive role in collections of legal financial obligations.

Summary: Offenders convicted of serious violent offenses or sex offenses that are class A felonies committed after July 1, 2003 are able to earn a maximum of 10 percent earned release time.

Offenders convicted of offenses that are not subject to supervision in the community and offenders convicted of drug offenses may earn a maximum of 50 percent earned release time if they are classified in one of the two lowest risk categories. This increase does not apply to any offender with any conviction for any of the following:

- sex offense;
- violent offense;
- crime against persons;
- residential burglary;
- felony domestic violence;
- methamphetamine manufacture, delivery or possession with intent to deliver;
- delivering a controlled substance to a minor.

The increase to a maximum of 50 percent earned release applies retroactively and prospectively and expires July 1, 2010. No offender convicted after July 1, 2003 has a reasonable expectation or enforceable interest in his or her earned release time under the due process clause and the Legislature retains the right to change the maximum amount of earned release for which offenders are eligible.

For offenders sentenced to less than one year (a jail sentence), courts may impose a term of community custody up to one year only if the crime for which the offender is convicted is a sex offense, violent offense, crime against a person, a drug offense, or if the offender was sentenced under the first time offender waiver.

DOC must perform a risk assessment on offenders with sentences to community custody, community placement, or community supervision and classify the offender into one of four risk management classifications, from highest to lowest. DOC must supervise those offenders classified in the two highest risk management classifications and is not authorized to supervise those offenders in the other risk management classifications unless the offender has any conviction for any of the following:

- sex offense;
- violent offense;
- crime against persons;
- residential burglary;
- felony domestic violence;
- methamphetamine manufacture, delivery or possession with intent to deliver; or
- delivering a controlled substance to a minor.

Or the offender:

- is required to participate in drug treatment or sex offender treatment;
- has been transferred to Washington under the Interstate Compact for Adult Offender Supervision; or
- was sentenced under the first time offender waiver.

The change to which offenders are supervised applies retroactively and prospectively and expires July 1, 2010.

The Washington State Institute for Public Policy must study whether the changes to earned release impact the rate of recidivism or the types of crimes committed and report to the Legislature by December 1, 2009.

The Drug Sentence Reform Act is implemented July 1, 2003.

The county clerk is authorized to collect unpaid legal financial obligations at any time the offender remains under the jurisdiction of the court for purposes of his or her legal financial obligations. DOC must collect or arrange for the collection of legal financial obligations while an offender is incarcerated, while the department is authorized to supervise the offender in the community, or if a county clerk does not engage in collections. When the offender completes his or her term of supervision, or if the offender is not subject to a supervision order in the community, DOC must notify the Administrative Office of the Courts (AOC) of the termination of the offender's supervision and provide information to enable the county clerk to collect the remaining legal financial obligations. AOC will provide the billing services and maintain its existing statewide database of offender payments.

When an offender with outstanding legal financial obligations has completed the non-financial requirements of his or her sentence, DOC will provide the county clerk with a notice that the offender has completed all the non-financial requirements of the sentence. When the offender completes payment of the legal financial obligations, the county clerk will notify the court, including the notice from DOC. The court then issues a certificate of discharge for the offense to the offender.

The Washington Association of County Officials, in consultation with the county clerks, will determine a funding formula for allocation of moneys appropriated for the purposes of collecting legal financial obligations and will report to the appropriate committee of the Legislature and the Administrative Office of the Courts by September 1, 2003. The association also reports annually beginning December 1, 2004, to the appropriate committee of the Legislature on the amounts of legal financial obligations collected by the county clerks.

The Administrative Office of the Courts shall distribute the funds appropriated to the counties for purpose of the county clerk collection budgets by October 1,

2003 without deducting any portion for administrative costs. The Administrative Office of the Courts may expend those funds appropriated by the Legislature for legal financial obligation billing.

The state, DOC, the counties, and their employees are not liable for the acts of an offender who is not under supervision by DOC, but remains under the jurisdiction of the court for payment of legal financial obligations.

DOC may make mandatory deductions for legal financial obligations, including victims compensation, restitution, and cost of incarceration from any worker's compensation benefit an offender receives. Monthly payment schedules are not a limit on civil collections.

Votes on Final Passage:

Senate	41	8	
House	84	13	(House amended)
Senate	43	4	(Senate concurred)

Effective: July 1, 2003 (Sections 1-12, 20 and 28)
October 1, 2003 (Sections 13-19 and 21-27)

ESB 5991

C 216 L 03

Changing minimum requirements for the existing secure community transition facility.

By Senators Stevens, Hargrove, Parlette, Regala, Carlson, McAuliffe and Winsley.

Senate Committee on Children & Family Services & Corrections
House Committee on Appropriations

Background: Under current law, the secure community transition facility (SCTF) on McNeil Island has a minimum staffing ratio of one staff member to each resident during normal waking hours and one staff member for every two residents during normal sleeping hours while the facility has six or fewer residents.

The legislation authorizing the construction and occupation of the SCTF on McNeil Island required a law enforcement officer to be on the island 24 hours a day, seven days a week. This requirement is currently being met by Washington State Patrol officers working overtime.

Changes to minimum staffing ratios for SCTFs or to the requirement for law enforcement around the clock for the SCTF on McNeil Island cannot be made except by the Legislature.

Summary: Minimum staffing ratios at the SCTF on McNeil Island are one staff member to three residents during normal waking hours and one staff member to four residents during normal sleeping hours subject to a minimum of two staff per housing unit.

The emergency response team for McNeil Island shall plan, coordinate, and respond in the event of an escape from the Special Commitment Center or the SCTF on McNeil Island.

The section requiring a law enforcement officer to be present on the island around the clock is repealed.

Votes on Final Passage:

Senate	39	9	
House	60	37	(House amended)
Senate	39	10	(Senate concurred)

Effective: July 1, 2003

SB 5994

C 59 L 03

Removing suppliers and distributors of wine from the provisions of chapter 19.126 RCW.

By Senators Hewitt, Reardon, Honeyford, Haugen, Rossi, Hale, Mulliken and T. Sheldon.

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

Background: Wineries, wine distributors, and wine importers must be licensed under Title 66 RCW, and are required to follow Liquor Control Board laws and rules under this title.

Distributors and suppliers of wine are also regulated under Chapter 19.126 RCW. The term "supplier" is defined as a wine or malt beverage manufacturer or importer who enters into a distribution agreement with a distributor, and does not include licensed domestic wineries. The term "distributor" is defined as any person who imports wine or malt beverages into the state or buys wine or malt beverages within the state in order to sell the liquor to licensed retailers.

Under Chapter 19.126 RCW, distributors and suppliers must make their agreements in writing. Distributors are required to "maintain the financial and competitive capability necessary to achieve efficient and effective distribution of the supplier's products" and must notify suppliers before any changes in ownership or management. The supplier has the right to reasonable prior approval of these changes. Suppliers may not coerce any wholesale distributor to engage in illegal conduct.

Continued violation of the provisions of Chapter 19.126 RCW may result in the suspension or cancellation of a distributor or supplier's license.

On February 20, 2003, the Washington State Supreme Court concluded that exempting domestic wineries from the provisions of Chapter 19.126 RCW violated the Commerce Clause of the United States Constitution.

Summary: Wine distributors are eliminated from the definition of "distributor" for the purposes of Chapter 19.126 RCW.

All wine manufacturers are eliminated from the definition of "supplier" for the purposes of Chapter 19.126 RCW.

The definition of "wine manufacturer" is deleted from Chapter 19.126 RCW.

Wine importers are eliminated from the definition of "importer" for the purposes of Chapter 19.126 RCW.

Votes on Final Passage:

Senate	47	0
House	95	0

Effective: April 17, 2003

SSB 5995

C 146 L 03

Regarding collective bargaining agreements in the construction trades.

By Senate Committee on Commerce & Trade (originally sponsored by Senators Honeyford and Keiser).

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

Background: The Washington Industrial Welfare Act prohibits the employment of any person in any industry or occupation under conditions of labor that are detrimental to his or her health and at wages that are not adequate for his or her maintenance. RCW 49.12.187 provides that the act shall not be construed to interfere with the right of employees to collectively bargain concerning wages or conditions of employment.

In 2002, the Washington Supreme Court issued a decision in *Wingert v. Yellow Freight Systems, Inc.*, 146 Wn. 2d 841 (2002). Employees of Yellow Freight had a collective bargaining agreement requiring a 15-minute break after two hours of overtime work. No breaks were provided for less than two hours of overtime work.

Section 296-126-092(4) of the Washington Administrative Code prohibits employees from working longer than three consecutive hours without a paid rest period. The employees of Yellow Freight asserted that the administrative code provision required a ten-minute break during the first two hours of an overtime assignment.

The court concluded that state law creates minimum standards and the collective bargaining agreement may only enhance or exceed those minimum standards.

Summary: The terms of a collective bargaining agreement may supersede rules adopted under the Industrial Welfare Act regarding meal periods and rest periods. The collective bargaining agreement must only apply to construction workers and must be negotiated under the National Labor Relations Act.

Votes on Final Passage:

Senate	46	0	
House	97	0	(House amended)
Senate	47	0	(Senate concurred)

Effective: July 27, 2003

SSB 5996

PARTIAL VETO

C 408 L 03

Creating a committee to host the 2005 NCSL conference.

By Senate Committee on Economic Development (originally sponsored by Senators West, Brown, Kohl-Welles, T. Sheldon, Shin, Hale, Rossi, Fairley, Spanel, Franklin, Parlette, McAuliffe, Rasmussen and Winsley).

Senate Committee on Economic Development
House Committee on State Government

Background: The Washington Legislature will host the annual meeting of the National Conference of State Legislatures (NCSL) in 2005.

State officers and employees may not accept gifts exceeding $50 except under certain circumstances.

Summary: The 2005 NCSL Host Committee is established. The committee is composed of four members of the Senate, two from each party, and four members of the House of Representatives, two from each party; the Lieutenant Governor; the Secretary of the Senate; the Chief Clerk of the House; and two former members of the Legislature, one from each party. The committee may solicit, accept, and expend funds for hosting the 2005 NCSL convention. The committee is to receive staff and resources from the Senate and the House.

The 2005 NCSL Host Committee Account is created in the treasurer's office. Expenditures from the account are limited to those needed to finance the activities of the committee. An appropriation is not required for expenditures from the account.

Gifts, grants, and other transfers of real and/or personal property may be solicited and accepted for purposes of hosting a government conference, without regard to the $50 limitation on acceptance of gifts by state officers and employees.

Votes on Final Passage:

Senate	48	0
House	76	13

Effective: July 27, 2003

Partial Veto Summary: Sections 3 and 4 of the bill, which permit solicitation for hosting government conferences, without regard to the $50 limitation, are vetoed.

VETO MESSAGE ON SB 5996-S

May 20, 2003

To the Honorable President and Members,
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to sections 3 and 4, Substitute Senate Bill No. 5996 entitled:

"AN ACT Relating to hosting the 2005 conference of the national conference of state legislatures and other government conferences;"

This bill establishes a host committee for the 2005 annual meeting of the National Conference of State Legislatures (NCSL). It also amends the Ethics Act to allow the solicitation and acceptance of gifts for the purpose of hosting a government conference.

Section 3 would have established a presumption that state officers and employees are not in violation of the Ethics Act when soliciting gifts, grants or donations to host a government conference. Section 4 would have also exempted these gifts from the ordinary fifty-dollar limit. Sections 3 and 4 are too broad and not necessary to accomplish the primary objectives of the bill, which are to establish a host committee for the 2005 NCSL conference and to allow legislators on the committee to solicit contributions in excess of fifty dollars for the conference.

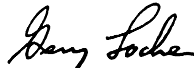
RCW 42.52.010(10)(e) of the Ethics Act specifies that a "gift" does not include "items a state officer or state employee is authorized by law to accept." Because section 2 of this bill authorizes the host committee to engage in fundraising activities, these activities are not considered a gift for purposes of the Ethics Act. Thus, sections 3 and 4 of the bill are not necessary.

Aside from being unnecessary to meet the primary objectives of this bill, sections 3 and 4 are too broad. They exempt fundraising for the hosting of any government conference, without limitation, from existing restrictions on the solicitation of gifts. The potential for abuse of this broad exemption concerns me.

For these reasons, I have vetoed sections 3 and 4 of Substitute Senate Bill No. 5996.

With the exception of sections 3 and 4, Substitute Senate Bill No. 5996 is approved.

Respectfully submitted,



Gary Locke
Governor

SSB 6012
C 262 L 03

Codifying shoreline rules.

By Senate Committee on Land Use & Planning (originally sponsored by Senators Mulliken, T. Sheldon and Morton).

Senate Committee on Land Use & Planning
House Committee on Local Government
House Committee on Appropriations

Background: The Department of Ecology has the legislative authority to adopt and implement shoreline management guidelines under the Shoreline Management Act.

In 1995, the Department of Ecology (DOE) was required by the Legislature to conduct a comprehensive update of the shoreline management guidelines. DOE adopted the final rule in 2000 regarding guidelines for local government master programs. In 2002, the Shorelines Hearings Board invalidated the guidelines and remanded the rule to DOE for further rule making, and DOE subsequently appealed the decision to superior court where the matter resulted in a settlement. However, because the court did not reinstate the prior existing guidelines, there are currently no guidelines for local government shoreline management.

DOE has proposed new shoreline management guidelines as a result of the court settlement. These proposed guidelines, however, have been a source of contention between the parties to the settlement and those that did not agree to the settlement terms, as well as those parties that did not participate in the court case. Further, in the absence of guidelines, local governments have been more reluctant to update their master programs due to the lack of predictability as to whether such actions will be approved by DOE and upheld by a growth management hearings board.

Summary: A staggered schedule, running from 2005 to 2014 and every seven years after the initial deadline, is established for the development, amendment, and review of shoreline master programs by local governments.

State funding must be provided to local governments at least two years prior to the deadline. Local governments that do not receive state funding may postpone the deadline until the following biennium, at which time they must be given first priority for funding and the deadline for their update will be two years after receiving the funds. With the exception of counties and cities scheduled to complete their updates in either 2005 or 2009, updates must be completed within two years after DOE approves the grant.

Local governments must develop or amend their shoreline master programs by December 1, 2014, at the latest to comply with the new DOE guidelines, regardless of available state funding. Local governments may update their master programs earlier than the timelines provided and are eligible for grants, if funding is available. The current statutory provision prohibiting DOE from making grants to local governments in excess of the recipient's contribution is removed.

DOE is no longer required to review the shoreline guidelines at least once every five years. DOE may not adopt amendments to the guidelines more than once per year and these amendments must be limited to technical or procedural issues related to the review of master programs or issues related to guideline compliance with state statutes.

Votes on Final Passage:

Senate	31	18	
House	61	37	(House amended)
Senate	44	5	(Senate concurred)

Effective: July 27, 2003

ESSB 6023
C 380 L 03

Increasing certain assessments and penalties imposed by courts.

By Senate Committee on Ways & Means (originally sponsored by Senators Hargrove, Rossi, Fairley and Kohl-Welles).

Senate Committee on Ways & Means
House Committee on Appropriations

Background: Persons who are found to have committed traffic infractions are assessed civil penalties. Revenues from traffic infraction penalties are split to local governments and the state through several different distributions.

Of the base traffic infraction penalty, the first $12 from each charge must be remitted to the state Judicial Information System Account. Added to the base penalty is a $5 fee that is distributed to the state Emergency Medical Services and Trauma Care System Trust Account. In addition, unless the offender is indigent, the court must charge an additional penalty of $10. If the offender is indigent, community restitution may be substituted. The revenues from this charge are distributed 32 percent to the state Public Safety and Education Account (PSEA) and 68 percent to local governments.

Courts of limited jurisdiction must also add two separate assessments to all court fines, forfeitures, and penalties. The first penalty assessment is 60 percent of the fine, which is distributed 32 percent to the state and 68 percent to locals. The second penalty assessment is 50 percent of the first assessment, and all of these funds are distributed to the state PSEA.

The state PSEA is currently used to fund crime prevention and criminal justice-related programs in the Criminal Justice Training Commission, the Department of Social and Health Services, the Office of the Administrator for the Courts, the Department of Corrections, the Washington State Patrol, the Department of Community, Trade, and Economic Development, the Office of Public Defense, the Department of Labor and Industries (Crime Victim's Compensation), and others.

Local revenues from traffic infractions and court penalties are deposited into county current expense funds. State law requires 1.75 percent of local penalty money to fund local programs for crime victims.

Summary: The additional penalty on all traffic infractions is increased from $10 to $20. Of the total $20, $8.50 is distributed entirely to the state PSEA. The remaining amount is distributed 68 percent to local governments and 32 percent to the state PSEA.

The first penalty assessment on all fines, forfeitures, and penalties by courts of limited jurisdiction is increased from 60 percent to 70 percent. The existing distribution of the 32 percent of the revenue to the state PSEA and 68 percent to local governments is retained.

Votes on Final Passage:

Senate	48	0
House	69	28

Effective: July 27, 2003

ESSB 6026
C 148 L 03

Authorizing a lodging charge to fund tourism promotion.

By Senate Committee on Ways & Means (originally sponsored by Senator West).

Senate Committee on Ways & Means
House Committee on Trade & Economic Development
House Committee on Finance

Background: Washington currently has three local sales and use taxes on lodging of less than one month. These are commonly referred to as "hotel-motel" taxes.

The first is a maximum 2 percent tax for any tourism-related purpose. Cities and counties may levy this tax, but not both in any one jurisdiction, and it is credited against the state sales tax, thereby not increasing the final charge to customers. In 2001, 134 cities and 38 counties levied this tax.

The second is a maximum 2 percent tax, if imposed in 1997 or later, and maximum 3 percent if imposed before 1997. Cities and counties may levy this, and it is independent of the state sales tax, thereby being an additional charge to customers. This tax is for the promotion of tourism or construction and operation of tourism-related facilities. In 2001, 91 cities and 18 counties levied this tax.

The third is specifically for the Washington State Convention and Trade Center. The rate of this tax is 7 percent in Seattle and 2.8 percent in the remainder of King County, and applies only to facilities with 60 or more lodging units.

In general, cities and counties may impose these hotel-motel taxes as long as the total sales tax rate, when combined with other state and local sales taxes, does not exceed 12 percent. Because of exceptions to this general rule, some combined rates exceed 12 percent. For example, the total combined sales tax rate on lodging in Seattle is 15.6 percent, and in Bellevue is 14.4 percent. In most other areas of King County, it is 12.4 percent.

Counties and incorporated cities and towns may levy special assessments and establish parking and business

improvement areas (PBIAs) for the development and maintenance of parking facilities and public events to benefit that area. Businesses, multifamily residences, and mixed-use projects representing at least 60 percent of the property assessments must support the establishment of the PBIA by means of a petition.

Summary: Counties of populations between 40,000 and one million, and incorporated cities and towns within them, may establish a tourism promotion area if the legislative authority receives an initiation petition by the most impacted lodging businesses. An interlocal agreement is required for a county to establish a promotion area in a city and for a city to establish a promotion area in an unincorporated part of a county.

Within a tourism promotion area, the city or county legislative authority may impose a charge of up to $2 per night from persons who are taxable by the state under chapter 82.08 RCW (retail sales tax). The charge may vary in an area, according to no more than six classifications based on number of rooms, room revenue, and location in the area, and applies only at lodging businesses with at least 40 rooms.

The Department of Revenue shall administer the charge and the "tourism promotion account" is established in the state treasury.

Votes on Final Passage:

Senate	41	8	
House	74	24	(House amended)
Senate	42	6	(Senate concurred)

Effective: July 27, 2003

SB 6052
C 410 L 03

Changing alternative route teacher certification provisions.

By Senators Johnson and Rossi; by request of Office of Financial Management.

Senate Committee on Education
House Committee on Appropriations

Background: In 2001, the Legislature created a statewide Partnership Grant program and the Alternative Route Conditional Scholarship program to support three alternative routes for teacher certification. Each route focuses on increasing the number of teachers in shortage and high need areas due to subject matter or geographic location. Routes one and two are available to individuals currently employed by a school district. Route three certification is available to people who are not employed by the school district but who have a bachelor's degree.

Funds, to the extent appropriated, are provided through the Partnership Grant program to participating districts that apply. Funds are to be used to assist the school district in partnering with higher education teacher preparation programs. The Professional Educator Standards Board (PESB), with support from the Office of the Superintendent of Public Instruction (OSPI) selects the districts that shall receive the funds and a list of factors to be considered is included in statute. The majority of the education for individuals participating in the program is intended to take place in a K-12 classroom under the direction of a mentor teacher, with higher education helping to fill in the gaps. Both the participants and the mentor teacher are eligible to receive a stipend paid for from the Partnership Grant program funds. Participants that are in the program for a full year are eligible for a stipend of at least 80 percent of a beginning teacher's salary (about $22,600).

The Conditional Scholarship program is administered by the Higher Education Coordinating Board (HECB) and is subject to the availability of funds appropriated for this specific purpose. Participation in the Conditional Scholarship program is limited to route one and route two participants and selection is made by the PESB. The total scholarship amount available to each recipient annually is $4,000.

Summary: To the extent funds are appropriated, districts may apply for program funds through the Partnership Grant program for stipends for mentors only. The mentor's stipend amount is limited to $500 per intern under the direction of the mentor. The list of factors the PESB and OSPI are to use in considering which district proposals to approve for partnership grants is clarified to be non-exclusive.

Conditional scholarships are made available to all program participants, including route three, and the total scholarship amount available is increased to $8,000.

Votes on Final Passage:

Senate	47	0	
House	97	0	(House amended)
Senate	49	0	(Senate concurred)

Effective: July 27, 2003

SSB 6054
C 401 L 03

Clarifying the application of the industrial welfare act to public employers.

By Senate Committee on Ways & Means (originally sponsored by Senators Rossi and Fairley; by request of Office of Financial Management).

Senate Committee on Ways & Means
House Committee on Commerce & Labor
House Committee on Appropriations

Background: The Industrial Welfare Act, now codified in chapter 49.12 RCW, was first enacted in 1913 to protect the industrial working conditions of women and children. In 1973, the statute was expanded to cover all

industrial workers.

Today, the statute includes a variety of provisions protecting workers, including the regulating of wages and working conditions of minors, legal actions to recover underpayment of wages, wage and employment discrimination based on sex, sick leave for care of family members, and other miscellaneous workplace issues.

The Industrial Welfare Act is administered by the Department of Labor and Industries, which has promulgated a variety of regulations under the act, including rules dealing with payment of wages, employment records, workplace sanitation, and meal and rest periods. The meal and rest period regulations require periodic rest and meal breaks during each employee's work shift.

While the family care provisions of the Industrial Welfare Act are expressly applicable to employees of the state and its political subdivisions, it is unclear whether the remainder of the act applies to public employees. In state institutions operated by the Department of Corrections (DOC) and the Department of Social and Health Services (DSHS), state employees have collectively bargained to work a straight eight-hour shift, without designated rest and meal breaks, instead of a nine-hour shift that includes designated break times.

Current litigation alleges that "straight eight" work shifts by the institutional staffs of DSHS and DOC violate the Industrial Welfare Act. Among other arguments, plaintiffs in the litigation allege that the act applies to public employers because they are not expressly excluded from the act's coverage. The defendant state agencies respond, among other arguments, that the Industrial Welfare Act was intended by the Legislature to protect only workers in industrial and commercial settings, and that the working conditions for public employees are regulated by other laws, including the state Civil Service Act, the Washington Industrial Safety and Health Act (WISHA), and other statutes.

The Legislature may adopt a curative amendment to a law, with the amendment having retroactive effect, if the amendment is enacted during a controversy regarding the meaning of the law.

Summary: The family care provisions of the Industrial Welfare Act were intended by the Legislature to be expressly applicable to state agencies and political subdivisions, but the remainder of the act was not intended by the Legislature to be applicable to public employers. The declared purpose of the bill is to clarify the application of the Industrial Welfare Act and, for that reason, the bill is declared to be remedial, curative, and retroactive.

However, in the future, public employers will be subject to the Industrial Welfare Act, but public employees may, through the collective bargaining process or other employment agreements, waive or supersede the requirements of the act in matters pertaining to rest and meal periods. The Industrial Welfare Act can also be superseded by any state statute or state rule, or by a local ordinance, resolution, or rule if the local measure was adopted prior to April 1, 2003.

Votes on Final Passage:

Senate	46	0	
House	96	0	(House amended)
Senate	48	0	(Senate concurred)

Effective: May 20, 2003

SB 6056
C 375 L 03

Adjusting fees, taxes, and penalties for pilots and aircraft.

By Senators Haugen and Horn.

Senate Committee on Highways & Transportation
House Committee on Transportation

Background: The aeronautics account provides funds for the administration of the Aviation Division of the Department of Transportation, support of state and local airports, and maintenance of state-owned airports. Funds going into the aeronautics account come from the aircraft fuel tax, aircraft excise tax, aircraft registration fee, a transfer from motor vehicle fuel tax and from federal grants.

The aircraft search and rescue safety and education account provides funds for the search and rescue of lost and downed aircraft, aviation safety and education, and volunteer recognition and support. The account is funded by pilot, and airmen and airwomen registration fees.

Pilot and airmen and airwomen registration fees may be set at an amount of up to $10, but are currently set at $8. The amount is set by the Department of Transportation. The funds from these fees are deposited into the aircraft search and rescue safety and education account. Aircraft registration fees are currently set at $8. Funds from the aircraft registration fee are deposited into the aeronautics account.

Under current law, the aircraft fuel tax rate is set by a calculation of 3 percent of the weighted average retail sales price of aircraft fuel. The current rate is 7 cents per gallon.

The Department of Transportation is to be notified within one week of a change in ownership of a registered aircraft or the registration may be cancelled.

Municipalities or port districts which own, operate or lease an airport shall require from an aircraft owner proof of aircraft registration or proof of intent to register an aircraft as a condition of leasing or selling tiedown or hangar space.

Summary: Annual pilot and airmen and airwomen registration fees are set at $15.

Annual aircraft registration fees are set at $15.

From July 1, 2003 through June 30, 2005, $7 from the pilot and aircraft registration fees is deposited into

the aeronautics account for airport maintenance.

The aircraft fuel tax is set at a fixed rate of 10 cents per gallon and the provision for the fuel tax rate calculation based on fuel prices is repealed. The aircraft fuel tax does not apply on fuel for emergency medical air transport entities.

The Department of Transportation must be notified of a change in ownership of a registered aircraft within 30 days.

An aircraft owner must show proof of aircraft registration to buy or lease hangar space from a municipality or port district.

Any person who fails to register an aircraft as required by law is subject to a civil penalty of $100 if the registration is 60 to 119 days past due. The penalty is $200 if the registration is 120 to 180 days past due, and $400 if the registration is over 180 days passed due.

Failure to register as a pilot, airman or airwoman as required by law is subject to a civil penalty of four times the fees that are due.

Votes on Final Passage:

Senate	35	13	
House	67	31	(House amended)
Senate	34	14	(Senate concurred)

Effective: July 1, 2003

SB 6057
C 259 L 03

Revising basic health care plan enrollment provisions.

By Senators Parlette and Rossi; by request of Office of Financial Management.

Senate Committee on Ways & Means
House Committee on Appropriations

Background: Initiative Measure 773, enacted in November 2001, raised the state cigarette tax by 60 cents, and the state tax on tobacco products by 54.5 percent of the wholesale price. This generates approximately $150 million of revenue per year. The initiative provides that approximately $23 million per year of this new revenue is to be transferred to other state dedicated accounts which lost revenue due to the effects of the tax increase on tobacco consumption, and that approximately $12 million per year is to be used for tobacco use prevention activities.

Initiative 773 directs that all of the remaining revenue may only be used to pay for Basic Health Plan enrollments, provided 125,000 such enrollments have first been subsidized from other state funding sources. These remaining revenues average approximately $115 million per year.

The portion of the Health Services Account not funded by Initiative 773 would be an estimated $560 million in deficit by June 2005 if it were to subsidize 125,000 Basic Health Plan enrollments through the end of the 2003-05 biennium, while continuing to provide Medicaid coverage for low-income children, and the current level of support for public health programs.

Summary: The net new revenues remaining after the various fund transfers required by Initiative 773 may still only be used for Basic Health Plan enrollments. However, the requirement that 125,000 such enrollments must first be funded from other state sources is deleted.

Votes on Final Passage:

Senate	35	14
House	92	5

Effective: May 12, 2003

ESSB 6058
C 19 L 03 E1

Modifying the distribution of state property taxes.

By Senate Committee on Ways & Means (originally sponsored by Senator Oke; by request of Office of Financial Management).

Senate Committee on Ways & Means
House Committee on Finance

Background: Under the law prior to enactment of Initiative 728 (I-728), lottery and state collected property tax revenues were deposited in the state general fund.

I-728 was approved by voters in the November 2000 general election. Under this initiative, lottery proceeds and a portion of the state property tax are dedicated for educational purposes by transferring revenues into the Student Achievement Fund and the Education Construction Account.

Under I-728, allowable uses of the Student Achievement Fund include: hiring more teachers to reduce class sizes and making necessary capital improvements; creating extended learning opportunities for students; providing professional development for educators; and providing early childhood programs.

Between school years 2001 and 2004, varying percentages of the lottery and a portion of the state property tax are deposited into the Student Achievement Fund.

Under I-728, the Student Achievement Funds provided to school districts are scheduled to increase in the 2004-05 school year through changes to property tax transfers into the account. These changes would increase the school district allocation from $220 per FTE student to $450 per FTE student. In subsequent school years, the $450 per student allocation to school districts would increase by inflation measured by the implicit price deflator.

Summary: The per student allocation from the Student Achievement Fund is: $254 per FTE student in the 2004-05 school year; $300 per FTE student in the 2005-06 school year; $375 per FTE student in the 2006-07

school year; and $450 per FTE student in the 2007-08 school year. In subsequent school years, the $450 per student allocation to school districts increases by inflation measured by the implicit price deflator.

Beginning in the 2004-05 school year, Student Achievement Fund allocations will be distributed to school districts based on the state apportionment schedule.

Votes on Final Passage:

Senate 29 20
First Special Session
Senate 28 19
House 66 31

Effective: September 9, 2003

SB 6059
C 20 L 03 E1

Modifying teacher cost-of-living provisions.

By Senator Oke; by request of Office of Financial Management.

Senate Committee on Ways & Means

Background: Prior to the passage of Initiative 732 (I-732), cost-of-living adjustments (COLA) were provided for K-12 public school employees and higher education employees at the discretion of the Legislature within the state biennial operating budget.

I-732 was approved by voters in the November 2000 general election. Beginning in the 2001-02 school year, I-732 required provision of an annual COLA for K-12 teachers and other public school employees, and community college and technical college academic and classified employees.

During the 2001-03 biennium, the Legislature appropriated sufficient funding to cover the costs associated with providing a cost-of-living adjustment to K-12 and community college and technical college staff included in state funding formulas. The Legislature did not provide funding for K-12 staff funded from local levies or federal funds, but adjusted the per pupil inflator for local levies and increased federal spending authority to allow the cost-of-living adjustment to be funded from those sources.

In December 2002, the Washington State Supreme Court issued its ruling in the case of *McGowan vs. State* (case no. 71947-1) which was brought by school districts and school employees to compel the state to fund the I-732 cost-of-living increases for school employees who are not paid from state dollars.

In its decision, the Supreme Court ruled:

(1) All K-12 employees are entitled to receive the cost-of-living-adjustment, and the state is required to provide state dollars to fund the COLA for all of these employees (including the employees who are being paid from local levy dollars or federal grants).
(2) However, these COLAs are not protected by the state Constitution provisions regarding "basic education." While the initiative declared the COLAs to be part of basic education, the court ruled that portion of the initiative to be unconstitutional.
(3) The court declined to order the state to appropriate the money for the COLAs and indicated that it did not want to speculate on what future appropriations might be made in light of its decision.

Summary: Provisions requiring the annual cost-of-living for the 2003-05 biennium are removed. The provisions declaring the COLAs as "basic education" are eliminated. The language of I-732 that directed the state to provide funding for all staff of the school district rather than just those included in state formula staff allocations is removed.

Votes on Final Passage:

Senate 27 22
First Special Session
Senate 26 20
House 59 33

Effective: September 9, 2003

ESB 6062
C 147 L 03

Authorizing bonds for transportation funding.

By Senators Horn, Haugen, Swecker, Jacobsen, Finkbeiner and Spanel.

Senate Committee on Highways & Transportation

Background: Bonds have been issued in the past to fund transportation projects that have a long term expected life span. The bonds must be authorized by the Legislature and the proceeds from the sale of the bonds must be appropriated for transportation projects.

Summary: Authorization is provided for the sale of $2.6 billion of general obligation bonds for transportation improvements. The bonds are backed by the motor fuel tax and the full faith and credit of the state.

The sale of $350 million of nondebt-limit general obligation bonds backed by revenues from the multimodal fund (sales tax on vehicles) is authorized.

The following monorail funding provisions are established: 1) the monorail may not incur debt until 30 days after the Environmental Impact Statement (EIS); 2) the amount of the initial bond sale is limited to the estimated project cost in the first two years; and 3) if the city transportation authority (monorail) is dissolved, it may continue to exist only to collect taxes to pay off outstanding debt.

Votes on Final Passage:

Senate 47 2
House 67 31

Effective: July 1, 2003

ESSB 6072

PARTIAL VETO

C 264 L 03

Funding pollution abatement and response.

By Senate Committee on Highways & Transportation (originally sponsored by Senators Horn and Haugen).

Senate Committee on Highways & Transportation

Background: Prior to 2000, each owner of a motor vehicle paid a $2 per vehicle clean air excise tax at the time of initial vehicle registration or renewal. Funds from this fee were used to implement provisions of the Clean Air Act.

Currently, there is a tug boat at the entrance of the Straight of Juan de Fuca, which is used during part of the year to rescue disabled vessels in order to prevent oil spills in the event a vessel goes aground.

Summary: Eighty five percent of the proceeds deposited in the segregated subaccount of the air pollution control account are distributed to local air pollution control authorities and 15 percent of the proceeds are distributed to the Department of Ecology. The funds are used to retrofit school buses with exhaust emission control devices, reduce vehicle emissions, reduce air contaminants, and to provide funding for fueling infrastructure to allow school bus fleets to use alternative cleaner fuels.

The Department of Ecology must provide a report to the legislative transportation committees on the progress of the implementation of the programs funded by the fee deposited in the segregated subaccount of the air pollution control account by December 31, 2004.

Proceeds deposited in the vessel response account are used to fund a tug boat at the entrance of the Straight of Juan de Fuca whose primary mission is to arrest the drift of disabled vessels in order to prevent a spill.

Beginning with the effective date of the act, and until July 1, 2008, the fees collected under RCW 46.12.080, 46.12.170, and 46.12.181 are credited as follows:

(i) 58.12 percent is credited to a segregated subaccount of the air pollution control account in RCW 70.94.015;
(ii) 15.71 percent is credited to the vessel response account created in section 3 of this act; and
(iii) the remainder is credited into the transportation 2003 account (nickel account).

Beginning July 1, 2008, and thereafter, the fees collected under RCW 46.12.080, 46.12.170, and 46.12.181 are credited to the transportation 2003 account (nickel account).

The vessel response account expires in 2008. The distribution of the air pollution control account created in this act expires in 2008.

Appropriation: $10,000,000 to the Department of Ecology from the air pollution control account, $2,876,000 to the Department of Ecology from the vessel response account, and $200,000 from the oil spill prevention account.

Votes on Final Passage:

Senate 42 6
House 63 35

Effective: July 27, 2003

Partial Veto Summary: The Governor vetoed section 6, which would have inadvertently eliminated the $50 physical inspection fee required for some out-of-state vehicles prior to registration in Washington State.

VETO MESSAGE ON SB 6072-S

May 14, 2003

To the Honorable President and Members,
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to section 6, Engrossed Substitute Senate Bill No. 6072 entitled:

"AN ACT Relating to funding pollution abatement and response;"

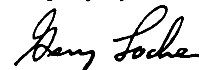
This bill establishes funding for a tugboat to reduce the risk of major maritime accidents, to enhance emission control for school buses, and to reduce and monitor vehicle air emissions.

I support these important environmental responsibilities, and appreciate the work of the legislature to provide for these activities within existing funds. However, section 6 of this bill would inadvertently eliminate the fifty-dollar physical inspection fee required for some out-of-state vehicles prior to registration in Washington State. I am, therefore, vetoing section 6 of this bill in order to maintain the inspection fee, which provides $2.5 million annual revenue for this important public safety program.

For these reasons, I have vetoed section 6 of Engrossed Substitute Senate Bill No. 6072.

With the exception of section 6, of Engrossed Substitute Senate Bill No. 6072 is approved.

Respectfully submitted,



Gary Locke
Governor

SSB 6073

C 263 L 03

Authorizing the increase of shellfish license fees.

By Senate Committee on Ways & Means (originally sponsored by Senators Hargrove, Rossi and Doumit).

Senate Committee on Ways & Means
House Committee on Appropriations

Background: To ensure the health of consumers, the Department of Health's Environmental Health Program

conducts testing and monitoring for biotoxins of shellfish from both commercial beds and beaches used by recreational shellfishers. The funding source for this program is the state general fund.

Harmful algal blooms occurring along the Washington coast may cause increased levels of domoic acid, which can trigger closure of the recreational and commercial shellfish harvest. The Olympic Region Harmful Algal Bloom (ORHAB) monitoring program is a collaboration of government, academia, business, and tribes established to study harmful algal blooms on the Washington coast. The program is based in the Olympic Natural Resources Center at the University of Washington. The objectives of the program are to understand the environmental conditions that cause blooms, and to develop models to predict and mitigate the effects of harmful algal blooms.

A personal use shellfish and seaweed license is required to dig for or possess seaweed or shellfish. The fee for the resident license is $7. The fee for the nonresident license is $20. The fee for a resident combination fishing license is $36; the fee for a nonresident combination license is $72.

Summary: Surcharges are added to personal use shellfish license fees to fund (1) biotoxin testing and monitoring by the Department of Health of beaches used for recreational shellfishing and (2) monitoring by the ORHAB monitoring program of the Olympic Natural Resources Center at the University of Washington.

The surcharge increases resident and nonresident shellfish licenses by $3, and the resident and nonresident combination fishing licenses by $2.

Amounts collected from the surcharge are deposited in the general fund-local account managed by the Department of Health. $150,000 of the revenues goes to the ORHAB monitoring program.

These fee increases take effect in the Department of Fish and Wildlife's license fee structure beginning July 1, 2003.

Votes on Final Passage:

Senate	48	1
House	79	18

Effective: July 1, 2003

ESSB 6074

C 91 L 03

Changing provisions relating to vessels.

By Senate Committee on Highways & Transportation (originally sponsored by Senators Horn, Haugen, Swecker and Prentice).

Senate Committee on Highways & Transportation

Background: Engrossed Substitute House Bill 1853 (ESHB 1853), allowing public transportation benefit areas (PTBAs) and ferry districts to provide passenger-only ferry (POF) service, was introduced during the 2003 legislative session. In ESHB 1853, ferry districts must be charged fair market value for Washington State Ferries' (WSF) vessels, equipment, and space, taking into account public benefit derived from the ferry service.

Additionally, ferry districts are provided with the following labor provisions, unless otherwise prohibited by law: (1) ferry districts, and any contract with their subcontractors, must give preferential hiring to former employees of the Washington State Department of Transportation who were displaced when state passenger-only ferry service was terminated; and (2) any questions concerning representation of employees for collective bargaining purposes may be determined by conducting a card cross-check, comparing an employee organization's membership records against the employment records of the employer.

PTBAs and ferry districts are not subject to the WSF's contractual labor obligations. However, PTBAs and ferry districts are subject to the terms of the contracts they negotiate with the bargaining representatives of their employees under the Public Employees Relations Commission (PERC) or the National Labor Relations Act, as applicable.

Current law establishes financial responsibility requirements for certain passenger vessels that transport petroleum products, either as cargo or as fuel. During the 2003 legislative session, the Legislature revised these requirements.

Summary: PTBAs are subject to the same labor provisions as ferry districts when offering POF services. In addition, PTBAs must be charged fair market value, taking into account public benefit derived from the ferry service, for WSF vessels, equipment, and space. A reference is also added to the PERC statute to clarify that public employees of PTBAs and ferry districts are subject to PERC requirements.

Private passenger vessels that transport passengers and vehicles between Washington and a foreign country are not subject to the revised financial responsibility requirements adopted by the 2003 Legislature.

Votes on Final Passage:

Senate	49	0
House	98	0

Effective: April 23, 2003 (Sections 1 and 2 [only if ESHB 1853 becomes law])
July 27, 2003

SB 6087

C 21 L 03 E1

Transferring funds to the site closure account.

By Senator Rossi.

Background: The state leases 1000 acres of land from the U.S. Department of Energy (DOE) within the Hanford reservation as a low-level radioactive waste facility. The generators of the low-level radioactive waste deposited at the facility are members of the Northwest Interstate Compact. The source of the waste are non-energy and non-weapon activities, such as hospitals and universities. The Department of Ecology sublets the operation of the facility to a private operator. The department imposed and collected fees to defray the state's liability associated with the completion, closure and perpetual maintenance of the facility. These fees were deposited in the site closure account and the perpetual surveillance and maintenance account. The site closure account will reimburse the final closure and decommissioning of the facility. The perpetual surveillance and maintenance account assures funding for post closure maintenance of the facility.

Summary: The Legislature is authorized to transfer $13.8 million from the site closure account to the state general fund in the 2003-05 biennium. Beginning July 1, 2008, and each year thereafter until 2033, the State Treasurer is directed to transfer $966,000 from the perpetual surveillance and maintenance account to the site closure account. This transfer is dependent upon the U.S. DOE amending the contract with the state. If the U.S. DOE does not agree, the State Treasurer is directed to transfer from the state general fund on the same schedule to repay the site closure account.

Votes on Final Passage:

First Special Session		
Senate	35	13
House	70	24

Effective: September 9, 2003

SB 6088

C 29 L 03 E1

Making prescription drugs more affordable to certain groups.

By Senators Deccio, Thibaudeau, Winsley, Swecker and Franklin.

Background: Influenced by price increases, greater utilization, and changes in the types of drugs used, national expenditures for prescription drugs have been one of the fastest growing components of health care spending in recent years, increasing around 18 percent a year for each of the last several years. This trend is expected to continue.

The increase in prescription drug expenditures has contributed to a significant growth in the cost of state health care programs. This has prompted many states to adopt strategies to control such expenditures, including consolidated drug purchasing and the identification of "preferred drugs" based on cost-effectiveness.

In Washington, the Governor has directed the establishment of a statewide pharmacy and therapeutics committee to evaluate drug effectiveness, a preferred drug list, and a consolidated purchasing program among various state agencies. Practitioners to whom the list applies are allowed to prescribe other than an identified preferred drug, but only with the prior authorization of the relevant state agency.

Interest exists in extending this aggregate purchasing strategy to benefit those who purchase drugs outside of current government programs or otherwise lack insurance coverage, and are having difficulty affording necessary medications. Some who need prescription drugs may also turn to assistance programs sponsored by pharmaceutical manufacturers that offer drugs on a reduced or no-cost basis. However, there is concern that these programs are inconsistent and not easy to access.

The federal Centers for Medicare and Medicaid Services (CMS) is also offering states an opportunity to extend Medicaid prescription drug coverage to certain low-income elderly and disabled individuals who are not otherwise Medicaid eligible. This coverage is made available through a demonstration waiver called "Pharmacy Plus." Several states have already received approval for their waiver programs.

At the local level, some programs exist intended to better educate seniors on safe and appropriate use of medications. This is also a means to reduce drug expenditures, and there is a desire to replicate these efforts around the state.

Summary: Current law authorizing state agencies to establish a drug formulary is amended to instead authorize an evidence-based prescription drug program. The program may include a preferred drug list, to which agencies must provide reasonable exceptions. Agencies must also adopt rules governing practitioner endorsement and use of any such list.

If a preferred drug has been identified for any state health care program, a pharmacist filling a prescription from a prescriber who has endorsed the drug list is generally required to substitute a preferred drug for a nonpreferred drug. However, if the prescriber indicates "dispense as written" or the prescription is for a refill of certain types of drugs identified in the bill, the pharmacist must dispense the prescribed nonpreferred drug and does not need additional authorization to do so. The pharmacists must notify the prescriber when a substitution is made, and assumes no liability for the substitution.

In negotiating prescription drug price discounts for state agencies, the Health Care Authority must also negotiate such discounts for any Washington resident who is at least 50, or between 19-49 and disabled, whose family income does not exceed 300 percent of the federal poverty level and whose existing prescription drug need is not covered by insurance. Participants are charged an enrollment fee. The program is subject to sunset review and termination on June 30, 2010.

The Health Care Authority must also establish a Pharmacy Connection program through which health care providers and members of the public can obtain information about and help in accessing manufacturer-sponsored prescription drug assistance programs. Notice regarding the program is to initially target seniors, but the program must be available to anyone, and is to include a toll-free number that may be used to obtain information.

The Department of Social and Health Services (DSHS) is to design, and seek any federal waiver necessary to implement, a medicaid prescription drug assistance program. The program is to be available to any person eligible for Medicare or age 65 and older, whose family income does not exceed 200 percent of the federal poverty level, and will be designed consistent with standards established in the bill. DSHS must report to the Legislature in November 2003 on financing options to support the program. It terminates within 12 months after implementation of any Medicare prescription drug benefit.

Each of the state's area agencies on aging must implement a program to inform and train persons 65 and older in the safe and appropriate use of prescription and nonprescription medications. To further this purpose, DSHS will award a development grant averaging up to $25,000 to each of the agencies.

By January 1, 2005, DSHS and the Health Care Authority must submit a progress report regarding implementation of the act.

Votes on Final Passage:

First Special Session

Senate	43	5
House	95	2

Effective: June 26, 2003

SB 6092

C 22 L 03 E1

Including a classified employee on the Washington professional educator standards board.

By Senators Zarelli, Rossi, Johnson, McAuliffe and Roach.

Background: In 2002, the Legislature created the Professional Educator Standards Board (PESB) to advise the Superintendent of Public Instruction (SPI) and the State Board of Education on issues related to educators. The PESB is composed of 19 voting members, appointed by the Governor: seven public school teachers, one private school teacher, three representatives of educator preparation programs at institutions of higher education, four school administrators, two educational staff associates, one parent, and one member of the public. Except for the parent and public member, each voting member must be actively employed in the position and have at least three years of experience in Washington schools. Additionally, the SPI is a nonvoting member of the PESB.

Summary: A classified employee, who assists in public school student instruction, is added as a voting member to the PESB. The classified employee must meet the same criteria as the other members, i.e., actively employed in the position and having at least three years of experience.

Votes on Final Passage:

First Special Session

Senate	45	0
House	94	0

Effective: September 9, 2003

ESB 6093

C 23 L 03 E1

Allowing soliciting to host official legislative conferences.

By Senators Kohl-Welles, Sheahan, Hale, Brown, T. Sheldon, Spanel, Rossi, Zarelli, Benton, B. Sheldon and Shin.

Background: State ethics laws prohibit state officers and state employees from accepting gifts under circumstances where it could be reasonably expected that the gifts would influence their votes, actions or official judgment, or be considered as part of a reward for action or inaction. Limitations are also placed on gifts of a non-influential nature. Generally, gifts may not be accepted that have an aggregate value of $50 or more during any calendar year from any single source.

Summary: Gifts, grants, and other transfers of real and/or personal property may be solicited and accepted for purposes of hosting a national legislative association conference in the state of Washington, without regard to the $50 limitation on acceptance of gifts by legislative officers and employees.

Votes on Final Passage:

First Special Session

Senate	44	1
House	92	0

Effective: September 9, 2003

2ESB 6097

PARTIAL VETO

C 4 L 03 E2

Revising the unemployment compensation system.

By Senators Honeyford and Mulliken.

Background: Unemployment Insurance Benefits

Benefit Eligibility. An individual is eligible to receive regular unemployment insurance benefits if he or she: (1) worked at least 680 hours in his or her base year; (2) was separated from employment through no fault of his or her own or quit work for a good cause; and (3) is able to work and is actively searching for work.

Benefit Amount and Duration. Regular benefits are based on the individual's earnings in his or her base year. The maximum weekly benefit equals 70 percent of the average weekly wage. Until July 1, 2004, the maximum rate is $496. From July 1, 2004 until June 30, 2010, a maximum growth rate of 4 percent is permitted. The maximum duration for benefits is 30 weeks.

Unemployment Insurance Taxes

Washington's unemployment insurance system requires each covered employer to pay contributions on a percentage of his or her taxable payrolls. The contributions of covered employers are held in trust to pay benefits to unemployed workers.

Tax Schedule and Rates. For most covered employers, unemployment insurance contribution rates are determined by the rate in the employer's assigned rate class under the unemployment insurance tax schedule in effect for the calendar year. The employer's position in the tax array depends on the employer's layoff experience relative to the experience of other employers. This relationship is determined by the calculation of a benefit ratio, which is the total benefits charged in the last four years to the employer's experience rating account divided by the employer's taxable payroll in the same period. Based on the relationship of the employer's benefit ratios, employers may be placed in any one of 20 rate classes.

The rates in these classes are determined by the tax schedule in effect. The statute establishes seven different tax schedules, from the lowest schedule of AA through the highest schedule of F. The tax schedule that will be in effect for any given calendar year depends on the fund balance ratio, which compares the unemployment insurance trust fund balance on June 30 of the previous year to the total payroll covered employment in the state for the completed calendar year prior to that June 30.

Some covered employers are not qualified to be assigned a rate class. Unqualified employers include those who do not report enough periods of employment during the previous three years. These employers pay the average industry rate in their industry, as determined by the commissioner of the Employment Security Department, but not less than 1 percent. (Under the Federal Unemployment Tax Act, states must set a 1 percent minimum rate for unqualified employers to maintain the credit that employers in the state may take against their federal unemployment insurance tax.)

The average industry rate also applies to certain successor employers who were not employers at the time of acquiring a business. Until a new successor employer becomes a qualified employer, the rate for these successor employers is the lower of the rate assigned to the predecessor employer of the average industry rate with a 1 percent minimum rate.

Taxable Wage Base. The amount of tax that an employer pays is determined by multiplying the employer's tax rate by the employer's taxable wage base. The taxable wage base is the amount of each employee's wages subject to tax for a given rate year. This amount increases by 15 percent each year with a cap of 80 percent of the state's "average annual wage for contribution purposes." The "average annual wage for contribution purposes" is based on the average of the three previous years' wages.

Experience Rating in the Unemployment Insurance System. Under the experience rating system, most benefits paid to claimants are charged to their former employers' accounts. Some benefits, however, are pooled costs within the system and are generally referred to as socialized costs. One kind of socialized cost is "noncharged benefits." The statutory list of benefits that are not charged to employer accounts include benefits to individuals who are marginally attached to the labor force. A person is marginally attached to the labor force when he or she receives more in benefits than he earned in wages over the same quarter over two years. Other socialized costs include "ineffective charges" that occur when the benefits charged to an employer's account exceed the contributions that the employer pays.

Penalties. Employers who fail to file timely and complete unemployment insurance tax reports must pay a minimum of $10 per violation.

Administration of Unemployment Insurance Program

The Employment Security Department must verify that every individual who has received five or more weeks of benefits has provided evidence of a search for work. Failure to seek work disqualifies a claimant from benefits for seven weeks.

Claimants must submit their Social Security numbers to receive benefits. If an individual's identity cannot be verified based on work history information, the claimant must submit a verification request form.

Summary: Unemployment Insurance Benefits

Benefit Eligibility. A part-time worker may receive unemployment benefits if he or she seeks work of 17 hours per less per week. A part-time worker is someone

who earns wages in at least 40 weeks of his or her base year and does not earn wages in more than 17 hours per week in more than three weeks of his or her base year.

To receive unemployment insurance benefits, an individual must also separate from employment through no fault of his or her own or quit work for good cause. Effective January 4, 2004, an individual may receive benefits if he or she leaves work for the following reasons:

(1) leave to accept other work;
(2) illness or disability of the individual or someone in the individual's immediate family;
(3) the claimant left work to relocate for the spouse's employment that was the result of a mandatory military transfer and is in a state that does not consider the individual to have left work without good cause;
(4) domestic violence or stalking;
(5) reduction of 25 percent or more in compensation or hours;
(6) change in work site that caused increased distance or difficulty of travel;
(7) deterioration of work site safety;
(8) illegal activities in the individual's work site or
(9) the work violates an individual's religious convictions or sincere moral beliefs.

Misconduct or gross misconduct do not constitute good cause for leaving work. After January 4, 2004, "misconduct" includes the following conduct:

(1) Willful or wanton disregard of the employer's or a fellow employee's rights, title and interests;
(2) Deliberate violations or disregard of standards of behavior;
(3) Carelessness or negligence that causes or would likely cause serious bodily harm to the employer or a fellow employee; or
(4) Carelessness or negligence to such a degree or recurrence to show intentional or substantial disregard of the employer's interest.

An employee discharged for misconduct is disqualified from benefits for 10 weeks and until he or she earns wages equal to ten times his or her weekly benefit amount.

After January 4, 2004, "gross misconduct" means a criminal act in connection with an individual's work for which the individual has been convicted, admitted committing, or conduct connected with the individual's work that demonstrates a disregard for the employer or a fellow employee. An individual discharged for gross misconduct must have all hourly wage credits based on that employment, or 680 hours of wage credits, whichever is greater, canceled.

Benefit Amount and Duration. In 2004, the weekly benefit amount must be based on one twenty-fifth of the average wages in the three highest quarters of the base year. In 2005, the weekly benefit rate must be equal to 1 percent of the claimant's total wages in the base year.

On or after January 4, 2004, the maximum weekly wage must be $496 or 63 percent of the average weekly wage for the previous year. When the unemployment rate reaches six and eight-tenths of a percent, the maximum duration for benefits is 26 weeks.

Unemployment Insurance Taxes

Basic Structure for Qualified Employers. Effective in 2005, the current system of tax array, trust fund triggers and schedules based on the trust fund level are eliminated.

An experience rate is assigned to an employer based on layoff history and allocated into 40 rate classes with rates ranging from 0-5.4 percent. This number is the array calculation factor.

A graduated social cost factor is determined by calculating the flat social cost factor rate and providing for a graduated social cost factor rate that ranges from 78 percent to 120 percent of the flat social cost factor depending on rate class.

If the balance in the unemployment insurance trust fund will provide fewer than six months of benefits, an employer's contribution rate may include a solvency surcharge. The solvency surcharge is based on the lowest rate necessary to provide revenue during a rate year that will fund unemployment benefits for the number of months that is the difference between eight months and the number of months the balance in the fund will provide benefits.

The employer's contribution rate is based on the sum of the array calculation factor, the graduated social cost factor and the solvency surcharge, if any. The sum of the array calculation factor and the graduated social cost factor may not exceed 6.5 percent. The rate for employers in certain seasonal industries is capped at 6 percent.

Nonqualified Employers. A new employer must pay a rate that is equal to the industry average plus 15 percent, but not more than 5.4 percent. The graduated social cost factor rate for new employers is the average industry rate plus 15 percent, but no more than the rate assigned in rate class 40.

Delinquent employers must pay an array calculation factor rate that is two-tenths higher than the rate in rate class 40. Their graduated social cost factor rate is the same rate as the rate assigned to rate class 40.

A successor employer must pay the predecessor's rate for the remainder of the rate year if there is a substantial continuity of ownership or management. The successor must pay a rate based on both the predecessor and the successor's experience during the subsequent year.

Taxable Wage Base. Wages are determined based on wage data from the previous year, rather than the previous three years. After December 31, 2003, wages do not include an employee's income attributable to stock options.

Experience Rating in the Unemployment Insurance System. Benefits may only be charged to the individual's separating employer if the individual left work voluntarily for good cause. Seasonal employee benefits during a seasonal work period may only be charged to the contribution paying seasonal employer.

The noncharging of benefits paid to claimants who are marginally attached to the labor force is eliminated.

Penalties. An employer who fails to file a timely or complete report may be subject to a fine up to $250 or 10 percent of the quarterly contributions, whichever is less. An employer who knowingly misrepresents the amount of his or her payroll is liable for up to 10 times the amount of the difference in contributions paid and the amount the employer should have paid, plus the costs of auditing. An employer who attempts to evade successorship provisions is liable for the maximum tax rate for five quarters.

Administration of the Unemployment Insurance Program

Current statutory language directing that the Employment Security Act must be liberally construed to reduce involuntary unemployment to the minimum is eliminated.

Effective January 4, 2004, the department must contract with employment security agencies in other states to ensure that individuals residing in those states and receiving Washington benefits are actively searching for work.

The department must undertake the following activities:

(1) Identify programs funded by special administrative contributions and report expenditures for those contributions to the committee;
(2) Conduct a review of the type, rate and causes of employer turnover in the unemployment compensation system; and
(3) Conduct a study of the potential for year-to-year volatility, if any, in rate classes under the new tax array.

The department must report its findings and recommendations to the Legislature by December 1, 2003.

Votes on Final Passage:

First Special Session			
Senate	33	12	
Second Special Session			
Senate	31	9	
House	52	38	(House amended)
Senate			(Senate refused to concur)
House	57	33	(House receded)

Effective: June 20, 2003

Partial Veto Summary: The requirement that unemployment insurance claimants who file claims electronically or telephonically provide additional proof of identity is removed.

VETO MESSAGE ON SB 6097

June 20, 2003

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 28 Second Engrossed Senate Bill No. 6097 entitled:

"AN ACT Relating to revising the unemployment compensation system through creating forty rate classes for determining employer contribution rates;"

This bill makes substantive and historic changes to our unemployment insurance (UI) system.

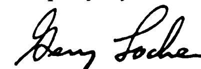
Section 28 would have required claimants who file initial and weekly claims electronically or telephonically to provide additional proof of identity, such as a driver's license. I have vetoed this section because it nullifies all the advancements and efficiencies gained with TeleCenters and Internet filing. This requirement would also place a burden on individuals who live in rural areas not located near one of the Work Source offices. The Department of Employment Security uses an extensive process to minimize the possibility of fraudulent claims. If there is any doubt regarding identity, the department may issue an affidavit of identity to the claimant that must be notarized before any benefits are paid. The department may also require an individual to appear in person, if necessary.

I am not vetoing section 4, which establishes a list of personal and work-related reasons that an individual may quit for "good cause" and receive UI benefits while searching for other work. However, without the benefit of experience, I appreciate concerns expressed about the unforeseeable nature of some of the practical effects of these amendments. Accordingly, I hereby instruct the Commissioner of the Department of Employment Security to track all impacts associated with the amendments in section 4, and to report her findings to me by June 2005.

For these reasons, I have vetoed section 28 of Second Engrossed Senate Bill No. 6097.

With the exception of section 28, Second Engrossed Senate Bill No. 6097 is approved.

Respectfully submitted,



Gary Locke
Governor

SB 6099

C 3 L 03 E2

Making an appropriation for the payment of expenses related to the implementation of 2ESB 6097.

By Senator Honeyford; by request of Governor Locke.

Background: Federal Reed Act funds may be used for unemployment insurance programs and for the administration of public employment offices. Reed Act funds must be authorized by a specific state appropriation.

The Legislature passed 2ESB 6079 in 2003. 2ESB 6079 changes provisions in Washington law regarding unemployment insurance taxes and benefits.

Summary: $11.5 million is appropriated from Reed Act funding credited to Washington in the unemployment

trust fund to implement the provisions of 2ESB 6097 regarding unemployment insurance.

Votes on Final Passage:

First Special Session

Senate	31	7
House	68	22

Effective: September 10, 2003

SJM 8000

Requesting the federal energy regulatory commission to withdraw a proposal affecting electricity.

By Senators Fraser, Morton, Hewitt, Keiser and Hale.

Senate Committee on Natural Resources, Energy & Water
House Committee on Technology, Telecommunications & Energy

Background: The Federal Energy Regulatory Commission (FERC) has proposed establishing a standard market design (SMD) for electricity, based on the premise that a single market model will work for the entire nation. The proposal requires a competitive market-based structure that changes the way the transmission system is operated, expands FERC's authority in state decisions regarding resource adequacy and demand response, and affects the regional benefits derived from public power.

The Northwest electricity system is different from most of the rest of the nation. Those differences include substantial public ownership of the transmission lines, a hydro-based system where the amount of energy generated is limited by the amount of water available, complex legal arrangements for multiple uses of the water to meet diverse goals, and a system that requires substantial coordination among plant owners and utilities.

Many people in the Northwest believe the SMD proposal would harm consumers in our region through increased costs and decreased reliability.

Summary: The Federal Energy Regulatory Commission (FERC) is requested to leave the Northwest electricity system in place and withdraw its Notice of Proposed Rulemaking establishing a Standard Market Design for electricity.

In the event that FERC does not withdraw its proposal, the President and Congress are requested to take action to prevent FERC from proceeding with its proposal establishing a standard market design.

Votes on Final Passage:

Senate	49	0	
House	96	0	(House amended)
Senate	42	0	(Senate concurred)

SSJM 8002

Requesting forest health-related management activities on all state and national forests in Washington state.

By Senate Committee on Natural Resources, Energy & Water (originally sponsored by Senators Morton, Hewitt, Sheahan, Stevens, Parlette, Mulliken, Oke and Roach).

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

Background: Numerous studies have found that many American forests are under stress. The problem includes forest weeds, tree disease, overly dense forest areas and species growing in areas where they have not traditionally grown. The resulting problems from forest diseases include risk of wildfire and loss of habitat for wildlife. Continuing threats from the introduction and spread of non-native pests and plants, extreme weather events and climatic flux, and changes in forest conditions due to both man and nature are placing American forests at risk. This includes both those forests that are managed for timber production and those that are managed for multiple uses and for wilderness preservation.

Summary: Recognizing the risks of fire and the problems of forest health, the Legislature requests that health-related management activities on all forest lands be accelerated in order to reduce the effects of catastrophic wildfire and loss of wildlife and recreation opportunities. The Forest Service is asked to review the effectiveness of its current firefighting procedures and to ensure that the most effective firefighting methods are used. The memorial supports the federal management activities to reduce the risk of the further spread of insects and diseases to state forest lands and to private lands adjacent to federal lands.

The Forest Service is encouraged to focus on management activities on federal lands adjacent to private lands and then to request from Congress the authority to use revenue generated from harvest activities to fund ecosystem restoration and reforestation. The Forest Service is encouraged to consider current market conditions and the economic viability of timber sales when choosing harvest methods and to encourage innovative and efficient logging techniques to ensure adequate protection of fish, wildlife and water quality. Federal, state and local agencies are asked to work together to streamline the process to jointly address forest health issues. Congress is asked to provide adequate funding for the United States Forest Service and continually assess the Forest Service's progress towards a healthy forest environment.

Votes on Final Passage:

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

SJM 8003

Requesting Congress to restore the sales tax deduction for federal income taxes.

By Senators Fraser, Rossi, Kohl-Welles, Fairley, Jacobsen, Benton, Eide, Esser, Franklin, Hale, Haugen, Johnson, Kline, McAuliffe, Oke, Parlette, Rasmussen, Regala, Roach, Schmidt, B. Sheldon, Spanel, Stevens, Thibaudeau, Winsley and Zarelli.

Senate Committee on Ways & Means
House Committee on Finance

Background: In 1986 federal tax changes removed the itemized deduction for state and local sales taxes on federal income tax returns. The Washington State Tax Structure Study estimates that Washington residents pay an additional $500 million annually in federal tax because of the inability to deduct state sales taxes. State and local income taxes and property taxes continue to be deductible as itemized deductions.

Thus far in the 108th Congress, a bill has been introduced in the House of Representatives to restore the itemized deduction for sales taxes. H.R. 261, the Stop Discrimination Against Seven States Act of 2003, would allow taxpayers of states with no income tax to deduct state and local sales and complementary use taxes.

Summary: Congress is requested to restore the itemized deduction for retail sales taxes.

Votes on Final Passage:

Senate	49	0
House	93	0

SJM 8008

Requesting that veterans receive concurrent retirement and disability payments.

By Senators Rasmussen, Swecker, Roach, Shin, Kastama, Franklin, Winsley, Schmidt, Oke, Eide and Kohl-Welles; by request of Joint Select Committee on Veterans' and Military Affairs.

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

Background: Retired veterans who are also disabled are not allowed to receive both the full amount of their retirement benefits and also the full amount of their disability benefits. The federal government reduces dollar for dollar the amount of retirement benefits received by the amount of disability benefits received.

In Washington, retired veterans account for 10 percent of the population. Of this, 37 percent are disabled.

Summary: The federal government is asked to allow retired veterans who are also disabled to receive the full amounts of their retirement and disability entitlements.

Votes on Final Passage:

Senate	49	0
House	96	0

SJM 8012

Asking the federal energy regulatory commission to withdraw a new pricing policy proposal.

By Senators Fraser, Morton and Kline.

Senate Committee on Natural Resources, Energy & Water
House Committee on Technology, Telecommunications & Energy

Background: The Federal Energy Regulatory Commission (FERC) recently proposed a new pricing policy for the rates of transmission owners who transfer operational control of their transmission facilities to a Regional Transmission Organization (RTO), form independent transmission companies (ITCs) within RTOs, or pursue additional measures that promote efficient operation and expansion of the transmission grid.

The proposed policy allows utilities to qualify for an incentive of 0.5 percent on their return of equity for participating in an RTO, by transferring operational control of transmission facilities before December 31, 2004, to a FERC-approved RTO. The incentive would be available until December 31, 2012.

The ITCs that participate in an RTO and meet FERC's independent ownership requirements qualify for an additional incentive equivalent to 1.5 percent of the book value of facilities at the time of divestiture. This incentive would be recovered through transmission rates, be available until December 31, 2022, and is contingent on continued participation by the RTO.

The final return of equity incentive is equal to 1 percent for investment in new transmission facilities, which are found appropriate pursuant to an RTO planning process.

Summary: The Federal Energy Regulatory Commission (FERC) is requested to leave the Northwest electricity system in place and withdraw its proposed new pricing policy for the rates of transmission owners until such time as a cost-benefit analysis is completed that indicates a positive benefit for Northwest consumers, and the region expresses its desire to form a new transmission organization.

In the event that FERC does not withdraw its proposal, the President and Congress are requested to take action to prevent FERC from proceeding with its proposal.

Votes on Final Passage:

Senate	47	0
House	93	0

SJM 8015

Petitioning Congress to adopt procedures for selling wheat reserves that preserve the integrity of the market.

By Senators Sheahan, Hale and Rasmussen.

Senate Committee on Agriculture
House Committee on Agriculture & Natural Resources

Background: Wheat is an important commodity grown in Washington State. Wheat prices are sensitive to actions of releasing significant quantities of wheat from federally held reserves.

Summary: The federal government is urged to establish new procedures to assure that future sales of wheat stocks from federally held grain reserves be conducted in a manner that will not unduly disrupt the market while also fulfilling the original intent of providing for emergency humanitarian food needs in developing countries.

Votes on Final Passage:

Senate	48	0
House	93	0

SSCR 8402

Encouraging legislator trade mission participation.

By Senate Committee on Commerce & Trade (originally sponsored by Senators Shin, Swecker, T. Sheldon, Reardon, Fairley, West, Benton, Kohl-Welles, Rasmussen and Winsley).

Senate Committee on Commerce & Trade
House Committee on Trade & Economic Development

Background: Participants in state trade missions include the Governor, Lieutenant Governor, Secretary of State, state agency personnel and legislators.

Summary: The Senate and the House of Representatives resolve that several protocols for legislative participation in executive agency trade missions are established.

An order of precedence for trade mission participants is created. Legislators are given fourth priority on the order of precedence list for trade missions. Executive agencies must give timely notification to legislators regarding upcoming trade missions, including the trade mission itinerary.

At least one legislator from each chamber of the Legislature may participate in trade missions, depending on the size and scope of the mission. Legislators participating in trade missions may serve as leaders of the missions. The designated leader of the trade mission will work closely with executive agency staff to develop trade mission protocols.

Whenever possible, legislators possessing expertise relevant to trade missions are encouraged to participate in these missions. Legislators are encouraged to provide feedback to executive agencies following completion of trade missions.

The trade mission fee charged to legislators, their guests, and staff must not exceed the actual costs associated with their participation in the trade mission.

Votes on Final Passage:

Senate	48	0	
House	93	0	(House amended)
Senate			(Senate refused to concur)
House	Adopted		(House amended)
Senate	45	1	(Senate concurred)

Sunset Legislation

Background: The Legislature adopted the Washington State Sunset Act (43.131 RCW) in 1977 in order 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 reauthorized in either their current or a modified form prior to the termination date.

Session Summary: Legislation establishes a new program that requires the Health Care Authority to negotiate discounts from prescription drug manufacturers for qualifying Washington residents while it is negotiating discounts for state-purchased health care programs. This discount program is subject to sunset review in 2010 with the legislation expiring in 2011.

Legislation renamed the former Permit Assistance Office as the Regulatory Assistance Office; required that a director be hired; and expanded the office's duties to include state regulations, permit requirements, and agency rule-making processes. The sunset review date of 2007 that applied to the former Permit Assistance Office was unchanged by the legislation. The new Regulatory Assistance Office is subject to sunset review in 2007.

Programs Added to Sunset Review

Program to require the Health Care Authority to negotiate price discounts with prescription drug manufacturers for individuals who meet eligibility requirements SB 6088 (C 29 L 03 E1)

Renaming the Office of Permit Assistance as the Office of Regulatory Assistance and expanding its duties SHB 1550 (C 71 L 03)

Pre-eruption aerial view northeastward. Mount St. Helens in the foreground, shows Talus, Toutle, Wishbone Glaciers and Goat Rocks. Mount Rainier is in background.

Section II
Budget Information

Operating Budget
Capital Budget
Transportation Budget

Cascade Range – North, South

The Cascade Mountain range extends from British Columbia to northern California and separates the Pacific coastal lands from the North American interior. These mountains consist of an active volcanic arc overlying uplifted Paleozoic to Tertiary age bedrock.

Northern Cascades - A structural break through the middle of the Washington Cascades divides this province into two sections. The North Cascades are jagged mountains covered with many glaciers and consist of Mesozoic age crystalline and metamorphic rocks. This section is further divided into east/west areas by the Straight Creek fault.

Known for mineral deposits from a variety of geologic ages, the northeast Cascades have been extensively mined. To the west of the fault are a series of thrust plates which extend into the Puget Lowland and also contain large mineral reserves.

Two well-known features in the area are Mount Baker and Glacier Peak, each with a summit rising to over 10,000 ft. They are stratovolcanoes, conical volcanoes built by the eruption of viscous lava flows, and are probably less than a million years old.

Southern Cascades - The southern section of the Washington Cascades reveals less complicated geologic structure and are primarily Cenozoic volcanic rocks. Mount Rainier dominates this section of the Cascades with its summit reaching over 14,000 ft. above sea level. The second highest peak in the Pacific Northwest is Mount Adams at over 12,000 ft.

Mount St. Helens is the youngest of the volcanic peaks in the Cascades. It had a summit of 9,677 ft. until May 18, 1980 when the mountain exploded and reduced the summit by more than 1,000 ft. The explosion caused an earthquake registering 5.1 on the Richter scale which triggered a giant avalanche of rock, mud and ice and was followed by a blast of hot gas, ash and rock.

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2003-05 Budget Overview

Washington State biennial budgets authorized by the Legislature in the 2003 session total $54.0 billion. The omnibus operating budget accounts for $44.8 billion. The transportation budget and the omnibus capital budget account for $4.8 billion and $4.4 billion, respectively.

Separate overviews are included for each of the budgets. The overview for the omnibus operating budget can be found on page 299, the overview for the transportation budget is on page 358, and the overview for the omnibus capital budget is on page 344.

2003-05 Budget Overview – Operating Only

Composition of the Projected Operating Budget Problem

The prolonged national recession that began in 2001 resulted in below average forecasted general fund revenue growth for the 2003–05 biennium. Following an absolute decline in revenue in the 2001-03 biennium, the March 2003 revenue forecast projected a 6.1 percent increase for 2003-05. Over the ten years prior to the current recession, biennial revenue growth had been about 10 percent while average expenditure growth had been about 9.5 percent. Because of both increased operating budget costs and slower-than-normal revenue growth, the projected 2003-05 operating budget faced an estimated gap of more than $2.7 billion.

The March 2003 revenue forecast estimated that the state would collect $22.5 billion in general fund revenues during the 2003-05 biennium. However, the estimated 2003-05 maintenance level budget – which represents the cost of continuing existing state government programs and services – was projected to cost $23.7 billion, or $1.2 billion more than the amount of revenue available. If the projected costs of employee salaries, health benefits, and vendor payments were added to the maintenance level estimates, state spending would have increased by an additional $536 million, bringing the total shortfall to more than $1.7 billion.

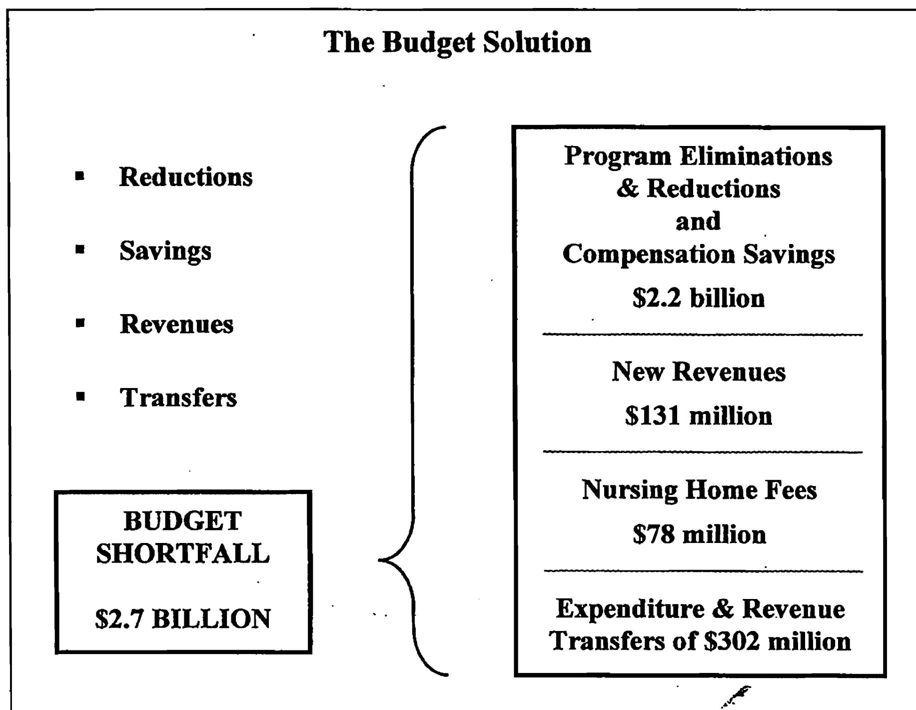
Approximately $400 million in additional spending needs resulted from two voter-approved initiatives. Under Initiative 732 and a recent Supreme Court decision interpreting the measure, the state was made responsible for the cost of funding employee cost-of-living adjustments (COLAs) for K-12 employees whose base salary is paid from local and federal funds. This would have added $283 million to the 2003-05 budget problem. In addition, implementing the contract for home care workers negotiated pursuant to Initiative 775 would increase general fund spending requirements by another $98 million.

When other spending demands are included – everything from debt service for the new capital budget to higher education enrollments to a salary increase for beginning teachers to increasing the nursing home reimbursement rate – total estimated general fund spending could have been as much as $24.9 billion – $2.4 billion more than expected revenue.

When the projected shortfall in Health Services Account is included, the $2.4 billion general fund shortfall grew to become a combined operating budget shortfall in excess of $2.7 billion.

How the Legislature Solved the 2003-05 Budget Problem

The legislature addressed the $2.7 billion budget problem in four ways. First, a total of $1.3 billion was achieved through a variety of program reductions and savings options. Second, $0.9 billion was conserved through compensation-related savings. Third, fund shifts and fund balance transfers provided an additional $302 million in assistance. Fourth, new net revenues totaling $209 million were raised, including a federally-matched nursing home quality maintenance fee.



The 2003-05 biennial General Fund-State appropriation is $23.08 billion[1], an increase of 2.2 percent over the 2001-03 appropriation. The total funds operating budget is $44.80 billion.

Program Reductions and Savings

The budget realized $2.2 billion[2] in program reductions and compensation savings. Savings were achieved across all functions and agencies of state government. Agencies were required to become more efficient in how they staff and perform their missions – this saved $45 million and over 1,100 full-time equivalent staff. Additionally, by requiring agencies to achieve savings to fund the costs of inflation, $22 million was saved.

In addition to multi-agency savings (such as from staff efficiencies), program reductions and eliminations in the Department of Social and Health Services saved $284 million. Examples of savings include the elimination of the Medically Indigent Program ($105 million), prescription drug savings ($24 million), reducing adult dental services ($12 million), and managed care rate increases ($25 million). In addition to savings in the general fund, net savings of almost $350 million are achieved in the Health Services Account through a variety of actions, including reducing the scope of benefits available under the Basic Health Plan (BHP) as well as reducing the number of persons who may be enrolled in the BHP. Reductions in the number of BHP enrollees are expected to be achieved entirely through attrition.

Changes made to Initiative 728 allowed the Legislature to recognize savings of $237 million in the Student Achievement Fund while still increasing the per pupil allocation from $211.67 in the 2003-04 school year to $254.00 in the 2003-04 school year. The initiative had called for the allocation to increase from $211.67 to $450.00 per pupil.

[1] The fiscal year 2004 appropriation is $11.38 billion, and the fiscal year 2005 appropriation is $11.70 billion.
[2] Including the state general fund, health services account, and the student achievement fund.

College and university operating budgets were reduced by $131 million. Institutions of higher education are also authorized to increase tuition for resident undergraduate students by up to 7 percent per year. Savings were also achieved in other state agencies. For example, the Department of Corrections is expected to save $40 million from changes to inmate sentencing and supervision.

The budget enacted by the Legislature assumed savings would be generated in the areas of equipment, travel, and contracts ($20 million) and legislative liaisons ($3 million). These two provisions were vetoed. Finally, the enacted budget was reduced as a result of monies provided to implement specific policy legislation lapsed when those bills were not enacted ($2.6 million).

Compensation Savings

Significant expenditure increases were also avoided in the area of employee and vendor compensation. Changes made to Initiative 732 generated savings of $207 million for state-funded K-12 and community college employees in the 2003-05 biennium and another $283 million for locally- and federally-funded positions between the 2001-03 and the 2003-05 biennia.

While state funding for employee health benefits is increased by $200 million, this is still nearly $70 million less than what the Health Care Authority estimated the cost of the current plan would be assuming the employee share of costs remained unchanged. Not providing salary increases to vendors as well as state and higher education employees saved $213 million. By rejecting the home care worker contract and instead providing a $0.75 per hour wage increase, the state saved $67 million. By not acting on the findings of the most recent salary survey, which would have brought those employees furthest behind market pay closer to market pay, the state saved $51 million. Finally, changes made to pension statutes affected pension contribution rates and generated savings of $87 million.

Fund Shifts and Fund Balance Transfers

The 2003-05 budget makes use of both state reserve accounts and money transfers from dedicated fund balances.

The sum of $81.2 million is transferred from various dedicated accounts to the general fund. In addition, the entire balance of the Emergency Reserve Fund, $59.4 million, is transferred to the general fund.

Programs were also transferred from the general fund to other fund sources ($161 million). For example, higher education building maintenance costs ($52 million) were shifted to dedicated fund sources appropriated in the capital budget and certain youth safety programs ($23 million) were shifted to the Public Safety and Education Account.

Increased Revenues

The budget adopts several measures that are expected, in total, to raise general fund revenues during the 2003-05 biennium by $446 million.

The budget included provisions that will increase revenue collection activities by the Department of Revenue ($32 million) and by the Liquor Control Board ($20 million), including an increase in the price of liquor. Legislation pertaining to penalty provisions, unclaimed property, and sales tax payment periods was enacted, which is expected to generate $101 million. Legislation authorizing the nursing home quality improvement fee is expected to generate $78 million, an amount that is then matched with federal funds and used to support an increased nursing home reimbursement rate. Finally, legislation was enacted that provided tax credits for the aerospace industry, which is expected to reduce revenue collections by $25 million.

The changes made to Initiative 728, which allowed the Legislature to recognize $237 million in savings are recognized as general fund revenue.

2003-05 Operating Budget (ESSB 5404)

The budget leaves a total $256 million budget reserve, $49 million less than the budget adopted in 2002. In the 2003-05 biennium, all of the reserves are in the unrestricted general fund ending balance.

2003-05 Estimated Revenues and Expenditures

General Fund-State

(Dollars in Millions)

Resources	
Beginning Fund Balance	**299.3**
March 2003 Revenue Forecast	**22,451.5**
Revenue Changes	
Budget Driven Revenue	51.9
Nursing Home Quality Fee	78.2
I-728 Property Tax Diversion	237.0
Aerospace Industry	(25.3)
Other Revenue Legislation	104.1
Current Revenue Totals	**22,897.4**
Fund Transfers to General Fund	81.2
Transfer from Emergency Reserve Fund	59.4
Total Resources (Revenue/Fund Balance)	**23,337.3**

Appropriations	
Biennial Appropriation *	**23,060.7**
Governor's Vetoes	23.3
Lapses	(2.6)
Spending Level	**23,081.4**
Adjusted I-601 Expenditure Limit	**23,673.1**
Difference Between I-601 Limit and Expenditures	**591.7**

Unrestricted General Fund Balance	
Projected Ending Fund Balance	**255.9**

Emergency Reserve Fund	
Beginning Fund Balance	**57.6**
Actual/Estimated Interest Earnings	1.7
Transfers and Appropriations	(59.4)
Projected Ending Fund Balance	**0.0**

* *Not shown above are federal assistance funds appropriated to states pursuant to Public Law (PL) 108-27. Washington expects to receive a total of $400.5 million from this source, $10 million of which was appropriated in the 2003-05 biennium.*

2003-05 Washington State Operating Budget
Appropriations Contained Within Other Legislation
(Dollars in Thousands)

Bill Number and Subject			Session Law	Agency	Total
2003 Legislative Session					
SSB 5248	-	Transportation	C 363 L 03	Department of Labor & Industries	100
ESSB 6072	-	Pollution Response	C 264 L 03 PV	Department of Ecology	13,076
SB 6099	-	Unemployment Insurance	C 3 L 03 E2	Employment Security Department	11,500
Total					24,676

Note: Operating appropriations contained in Chapter 25, Laws of 2003, 1st sp.s., Partial Veto (ESSB 5404 - 2003-05 Omnibus Operating Budget) and Chapter 360, Laws of 2003, Partial Veto (ESHB 1163 - 2003-05 Transportation Budget), are displayed in the appropriate sections of this document.

2003 Revenue Legislation Changes
General Fund-State and Total Revenue Impacts
(Dollars in Thousands)

Legislation		General Fund 2003-05	Other Funds 2003-05	Total State Revenue Impact 2003-05
EHB 1037	Litter Tax/Food & Beverages	0	-775	-775
SHB 1069	Delinquent Property Taxes	0	0	0
HB 1073	Property Tax Collection	0	0	0
SHB 1075	Forest Tax Statutes	0	0	0
SHB 1081	Mortgage Lending Fraud	0	1,000	1,000
HB 1126	Seed Testing Fees	0	938	938
SHB 1219	Securities Violations	-44	193	149
2SHB 1240	Biodiesel & Alcohol Fuel	0	0	0
2SHB 1241	Biodiesel & Alcohol Fuel	-50	0	-50
SHB 1278	Listing Property/Tax Purpose	0	0	0
SHB 1455	Money Transmission & Exchange	0	884	884
HB 1591	Excise Tax Interest	614	0	614
SHB 1722	Internet Transaction Taxes	-20	0	-20
2SHB 1725	Catch Record Cards	0	307	307
SHB 1813	Employment/Disabled Persons	0	62	62
HB 1858	Chemical Dependency Services	-64	0	-64
2SHB 1887	Commercial Fisheries	0	3,205	3,205
HB 1905	Property Tax Exemption	0	0	0
SHB 1930	Tobacco Settlement	0	1,500	1,500
SHB 1943	Counterfeit Cigarettes	8	0	8
EHB 1977	Use Tax	-60,000	0	-60,000
HB 2001	Nonprofit Property Tax Exemption	0	0	0
SHB 2027	Cigarettes	99	227	326
SHB 2038	Tobacco Escrow Refunds	0	2,000	2,000
SHB 2040	Delinquent Insurer/Taxpayer	40	0	40
EHB 2146	Wood Biomass Fuel	0	0	0
SHB 2192	Parimutuel Taxation	0	181	181
EHB 2269	Increased Revenue Act	100,553	0	100,553
HB 2294	Aerospace Industry	-25,302	0	-25,302
SHJM 4004	Fed Income Tax Deduction	0	0	0
SSB 5051	Strong Beer	0	0	0
ESSB 5071	Aviation Repair B&O Tax	-1,272	0	-1,272
E2SSB 5341	Nursing Facility Fee	78,190	0	78,190
SB 5363	Economic Revitalization Board	0	0	0
SB 5725	Semiconductor Cluster	0	0	0
SSB 5737	Abandoned Property	0	0	0
SB 5783	Sales and Use Tax Agreement	4,218	0	4,218
SSB 5933	Cigarette Tax Contracts	0	0	0
ESSB 6023	Court Assessments/Penalties	0	16,656	16,656
ESSB 6058	State Property Taxes	188,316	-188,316	0
SJM 8003	Fed Income Tax Deduction	0	0	0

2003 Revenue Legislation Changes
General Fund-State and Total Revenue Impacts
(Dollars in Thousands)

Legislation		General Fund 2003-05	Other Funds 2003-05	Total State Revenue Impact 2003-05
Transportation Legislation				
ESHB 1853	Passenger Ferry Service	0	0	0
HB 2065	License Plate Technology	0	2,156	2,156
ESHB 2228	Commute Trip Reduction	0	-6,000	-6,000
ESHB 2231	Trans Financing Alternatives	0	411,742	411,742
SSB 5190	Fuel Tax Evasion	0	87	87
ESSB 5247	Local Option Fuel Tax	0	0	0
ESB 5450	Electric Vehicles	0	67	67
SSB 5600	Returned License Plates	0	5	5
SB 6056	Pilot & Aircraft Fees	0	1,119	1,119
Local Revenue Legislation				
ESHB 1462	Intellectual Property	0	0	0
EHB 2030	Municipal B&O Tax	0	0	0
ESHB 2088	Storm Water Rates & Charges	0	0	0
2ESSB 5659	Local Government Funding	0	0	0
ESSB 6026	Convention & Tourism	0	0	0
Budget Driven Revenue				
ESSB 5404	Liquor Store Openings & Relocations; New DOR Auditors	51,931	0	51,931

Revenue Changes

Against a backdrop of a lingering local recession and stagnant state and local revenues, the Legislature enacted several significant revenue measures in the 2003 session to bolster the state general fund, boost transportation resources, and provide local governments with additional financial tools. The state general fund revenue for the 2003-05 biennium was forecasted in March 2003 to be $22.4 billion, only 6 percent above the 2001-03 collections, and about $2.7 billion less than the estimated level required to maintain current service levels. While the Legislature ultimately relied mainly on program cuts and transfers from other funds to balance the 2003-05 general fund budget, legislation was adopted that increased general revenues a total of $236 million. In addition, legislation was enacted to increase the state transportation revenues by $412 million and to provide local governments with additional general sales and use tax authority and with more flexible property tax authority.

The Legislature also took significant steps to provide relief to certain sectors of the economy and to simplify tax administration. Unprecedented tax incentive packages were passed to support the state semiconductor and aerospace industries. In addition, measures were enacted to provide uniformity and consistency among municipal business tax codes and to make changes to the state sales and use tax codes to bring the state into conformance with the multi-state Streamlined Sales Tax Project agreement.

General Fund-State Increase Measures

The Legislature enacted three pieces of legislation that increase general fund revenues significantly. The biggest, Chapter 13, Laws of 2003, 1st sp.s. (EHB 2269), is an omnibus revenue act that adds over $100 million to the state general fund. The legislation makes a number of administrative changes, including advancing the date for the payment of most excise taxes, increasing certain penalties, and shortening the period that abandoned property may be held by third parties. To increase compliance, promoters of special events must verify that vendors at special events are registered with the Department of Revenue. In addition, the legislation closes a loophole with respect to liability for unpaid excise taxes after a business or its assets are sold.

Chapter 16, Laws of 2003, 1st sp.s. (E2SSB 5341), also increases state general fund revenues by requiring a per-patient quality maintenance fee of most nursing homes. This legislation increases state general fund revenues by $78 million.

The omnibus appropriations act, Chapter 25, Laws of 2003, 1st sp.s., Partial Veto (ESSB 5404), includes provisions that increase state general fund revenues by almost $52 million. The Liquor Control Board is directed to relocate some stores and open five additional stores and to increase the retail liquor mark-up by 42 cents per liter. In addition, the Department of Revenue is given additional resources to improve the enforcement of existing revenue collections.

Transportation Revenues

The Legislature enacted two significant pieces of transportation legislation to boost state revenues and local revenue authority. The first, Chapter 361, Laws of 2003, Partial Veto (ESHB 2231), imposes several state transportation financing measures. The principal components that raise revenue are an increase in fuel taxes of 5 cents per gallon; a 15 percent increase to gross weight fees for trucks over 10,000 pounds; and an additional 0.3 percent sales tax on motor vehicles. The second, Chapter 350, Laws of 2003 (ESSB 5247), authorizes a regional transportation investment district to impose the local option fuel tax of 10 percent of the state fuel tax rate, subject to voter approval.

Local Government Revenues
Action was taken to increase local government revenue authority and flexibility in the 2003 sessions. Chapter 24, Laws of 2003, 1st sp.s., Partial Veto (2ESSB 5659), authorizes counties, with voter approval, to impose additional general sales and use taxes of up to 0.3 percent. Any new revenues must be shared with the cities within the county. In addition, cities and counties may submit a proposition to voters to allow increases in regular property tax levies in excess of 1 percent annually for a block of time of up to six years. While the bill that was enacted also included modifications to the Growth Management Act, the Governor vetoed those provisions.

Industry-Specific Incentive Packages
Two significant tax incentive packages were enacted to support the semiconductor and aerospace industries. Chapter 149, Laws of 2003 (SB 5725), creates a number of business and occupation (B&O), sales and use, and property tax preferences for the manufacture of semiconductor materials. The B&O tax preferences include an exemption for the manufacture of semiconductor microchips, a reduction in the tax rate for the manufacture of other semiconductor materials, and a tax credit of $3,000 for each employment position in semiconductor manufacturing production. Sales and use tax incentives include exemptions for the acquisition of gases and chemicals used in semiconductor manufacturing and for the construction of new semiconductor manufacturing buildings. Machinery and equipment used in manufacturing semiconductor materials are exempt from property taxation. All incentives in the act are contingent upon the signing of a contract for an investment of at least $1 billion in a semiconductor microchip manufacturing facility in Washington and are effective for 8 to 14 years.

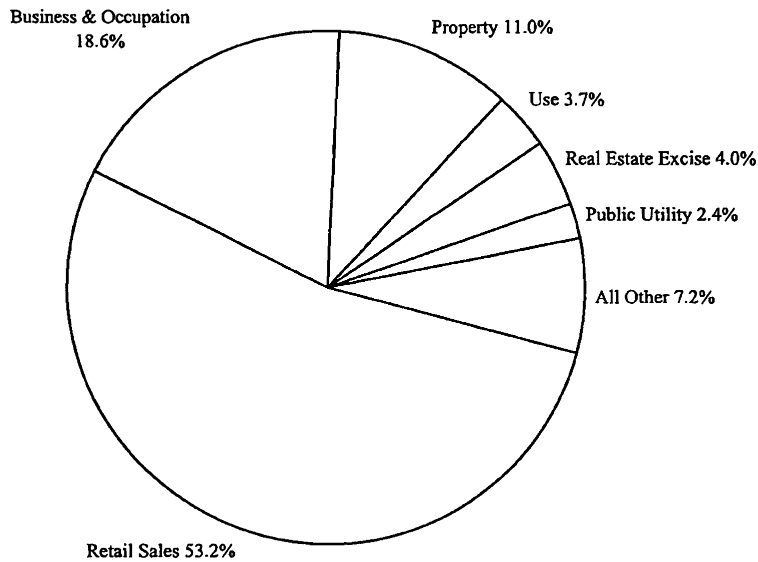
Chapter 1, Laws of 2003, 2nd sp.s. (HB 2294), provides a number of tax preferences to the Washington aerospace industry through July 1, 2024, contingent upon the siting of the production of a superefficient commercial airplane in Washington State. The most significant provision is a 40 percent reduction in the B&O tax rate for the manufacture of commercial airplanes and associated components. Other B&O tax incentives include credits against tax liability for computer hardware and software equipment acquired previously by a commercial airplane manufacturer, for certain research and development (R&D) expenditures, and for property taxes paid on new buildings and other property acquired after enactment. Sales and use tax exemptions are provided for the construction of buildings used for the manufacture of superefficient airplanes and for the acquisition of computer hardware and software used in R&D for commercial airplane and associated components. If the production site for a superefficient airplane is located at port district facilities, the lessee receives exemptions from the leasehold excise tax and, in lieu of the B&O credit for property taxes paid, from property tax on all personal property used in the manufacture of the airplanes.

State and Local Tax Simplification
In Chapter 79, Laws of 2003 (EHB 2030) and Chapter 168, Laws of 2003 (SB 5783), the Legislature took steps to simplify local and state tax codes. The former requires cities, working through the Association of Washington Cities, to adopt a model business tax ordinance to address issues of uniformity between municipal codes and to prevent multiple taxation of business income; cities with business tax ordinances are required to adopt the mandatory provisions of the model ordinance by 2004. In addition, cities with business taxes are required by 2008 to allow businesses to apportion taxable income according to location of business activity. In SB 5783, the Legislature adopted definitional and other administrative changes to the sales and use tax code, conforming the state code to the terms of the multi-state Streamlined Sales and Use Tax Agreement that has been developed to simplify and improve state and local sales taxes.

Washington State Revenue Forecast - March 2003

2003-05 General Fund-State Revenues by Source

(Dollars in Millions)



Sources of Revenue	
Retail Sales	11,944.7
Business & Occupation	4,170.8
Property *	2,478.2
Use	819.8
Real Estate Excise	892.0
Public Utility	529.9
All Other	1,616.1
Total	22,451.5

* *The state levy forecast reflects only the General Fund portion. The portion of the state levy that is transferred to the Student Achievement Account by Initiative 728 is excluded.*

Note: Reflects the March 2003 Revenue Forecast (Cash Basis).

Washington State
General Fund-State Revenues By Source

Dollars in Millions

	1993-95	1995-97	1997-99	1999-01	2001-03	2003-05
Retail Sales	8,020.5	8,541.8	9,609.8	10,903.5	11,014.1	11,944.7
Business & Occupation	3,031.5	3,300.1	3,603.6	3,772.9	3,789.3	4,170.8
Property *	1,960.4	2,211.7	2,452.8	2,651.9	2,607.0	2,478.2
Use	569.4	626.1	662.0	779.5	765.0	819.8
Real Estate Excise	493.0	532.6	746.3	801.5	852.5	892.0
Public Utility	345.2	388.1	415.8	495.3	526.0	529.9
All Other	1,780.9	1,729.5	2,129.2	1,857.5	1,609.1	1,616.1
Total	**16,200.9**	**17,329.9**	**19,619.5**	**21,262.1**	**21,163.0**	**22,451.5**

Percent of Total

	1993-95	1995-97	1997-99	1999-01	2001-03	2003-05
Retail Sales	49.5%	49.3%	49.0%	51.3%	52.0%	53.2%
Business & Occupation	18.7%	19.0%	18.4%	17.7%	17.9%	18.6%
Property	12.1%	12.8%	12.5%	12.5%	12.3%	11.0%
Use	3.5%	3.6%	3.4%	3.7%	3.6%	3.7%
Real Estate Excise	3.0%	3.1%	3.8%	3.8%	4.0%	4.0%
Public Utility	2.1%	2.2%	2.1%	2.3%	2.5%	2.4%
All Other	11.0%	10.0%	10.9%	8.7%	7.6%	7.2%
Total	**100.0%**	**100.0%**	**100.0%**	**100.0%**	**100.0%**	**100.0%**

Percent Change from Prior Biennium

	1995-97	1997-99	1999-01	2001-03	2003-05
Retail Sales	6.5%	12.5%	13.5%	1.0%	8.5%
Business & Occupation	8.9%	9.2%	4.7%	0.4%	10.1%
Property	12.8%	10.9%	8.1%	-1.7%	-4.9%
Use	10.0%	5.7%	17.8%	-1.9%	7.2%
Real Estate Excise	8.0%	40.1%	7.4%	6.4%	4.6%
Public Utility	12.4%	7.1%	19.1%	6.2%	0.7%
All Other	-2.9%	23.1%	-12.8%	-13.4%	0.4%
Total	**7.0%**	**13.2%**	**8.4%**	**-0.5%**	**6.1%**

** The state levy forecast reflects only the General Fund portion. The portion of the state levy that is transferred to the Student Achievement Account by Initiative 728 is excluded.*

Note: Data for 2001-03 and 2003-05 reflect the March 2003 Revenue Forecast (Cash Basis).

Revenue Legislation

Exempting from the Litter Tax Retail Sales of Food and Beverages that are Consumed Indoors on the Seller's Premises – No General Fund-State Revenue Impact
Chapter 120, Laws of 2003 (EHB 1037), provides an exemption from litter tax on retail sales of food and beverages that are consumed indoors on the seller's premises. The litter tax applies to the value of certain categories of wholesale and retail products at a rate of 0.015 percent. This legislation does not impact the state general fund but reduces revenue to the Waste Reduction, Recycling, and Litter Account by $775,000.

Authorizing Additional Waivers on Interest and Penalties for Delinquent Property Taxes – No General Fund-State Revenue Impact
Chapter 12, Laws of 2003 (SHB 1069), waives interest and penalties on late property taxes if the delinquency of payment was the result of untimely receipt of the tax bill due to error by the county. This legislation does not impact the state general fund but may reduce local revenues.

Modifying the Collection of Property Taxes on Land Subleased for Residential and Recreational Purposes – No General Fund-State Revenue Impact
Chapter 169, Laws of 2003 (HB 1073), allows foreclosures against subleases in addition to improvements on the lots when property taxes are delinquent on lots that are private leases of publicly-owned land. This legislation applies to lease arrangements at Lake Cushman only and has no revenue impact.

Clarifying 2001 Statutory Changes Made to Forest Tax Statutes – No General Fund-State Revenue Impact
Chapter 170, Laws of 2003 (SHB 1075), clarifies that the date on a death certificate will be used to implement an exception to payment of back property taxes related to the death of an owner. In addition, the legislation restores language to the timber tax law that limits applicable rules to just those rules adopted under Title 76 RCW (Forests and Forest Products). This legislation has no revenue impact.

Providing Funds to Deter, Investigate, and Prosecute Real Estate Fraud Crimes – No General Fund-State Revenue Impact
Chapter 289, Laws of 2003 (SHB 1081), creates an account to be administered by the Department of Financial Institutions and the State Treasurer for the purpose of assisting state and local law enforcement authorities in deterring, investigating, and prosecuting fraud on the part of mortgage lenders. County auditors are required to collect money for the new account by imposing a $1 surcharge upon the recording of certain deeds of trust. This legislation does not impact the state general fund but increases revenues to a new account, the Mortgage Fraud Prosecution Account, by $1 million.

Allowing Seed Testing Fees to Increase in Excess of the Fiscal Growth Factor Set Out in Chapter 43.135 RCW – No General Fund-State Revenue Impact
Chapter 308, Laws of 2003 (HB 1126), authorizes the Department of Agriculture to increase fees imposed under the seed laws with respect to laboratory testing and seed certification in excess of the state fiscal growth factor under specified conditions. The state's seed laws provide uniformity and consistency in the packaging of agricultural and other seed. This legislation does not impact the state general fund but increases fee-related revenues to the Agricultural Local Account by $938,000.

Addressing Violations Connected with the Offer, Sale, or Purchase of Securities – $44,000 General Fund-State Revenue Decrease
Chapter 288, Laws of 2003 (SHB 1219), creates a new account and requires the Department of Financial Institutions to administer the account for the purpose of assisting law enforcement authorities in the prosecution of violations of the Securities Act. The account is funded by redirecting fines and funds from restitution and disgorgement orders. The legislation increases criminal penalties and expands the statute of limitations for violations of the Securities Act. Fines that may be administratively imposed by the Department of Financial Institutions are also increased. This

legislation decreases state general fund revenues by $44,000, decreases Financial Services Regulation Account revenues by $7,000, and increases revenues to the new account, the Securities Prosecution Account, by $200,000.

Providing Tax Incentives for Biodiesel and Alcohol Fuel Production – No General Fund-State Revenue Impact
Chapter 261, Laws of 2003 (2SHB 1240), establishes several tax preferences for the manufacture of alcohol and biodiesel fuels and for the manufacture of feedstock used for biodiesel fuels through June 30, 2009. A sales and use tax exemption is provided for the construction of manufacturing facilities. Property and leasehold excise tax exemptions are provided on real and personal property used for the purposes of manufacturing. A preferential business and occupation (B&O) tax rate of 0.138 percent is provided to eligible manufacturers. Because no fuel production activity is expected to commence for several years, this legislation has no revenue impact during the 2003-05 biennium.

Providing Tax Incentives for the Distribution and Retail Sale of Biodiesel and Alcohol Fuels – $50,000 General Fund-State Revenue Decrease
Chapter 63, Laws of 2003 (2SHB 1241), establishes a B&O tax deduction for income derived from the sale of biodiesel or alcohol fuel through June 30, 2009. In addition, an exemption from retail sales and use taxes is provided for machinery and equipment used directly in the sale or distribution of biodiesel and alcohol fuels as well as any associated installation labor costs. This legislation reduces state general fund revenues by $50,000 and local revenues by $9,000.

Listing Property for Tax Purposes – No General Fund-State Revenue Impact
Chapter 302, Laws of 2003 (SHB 1278), eliminates the requirement that personal property affidavits must be signed and verified under penalty of perjury for property tax purposes. Instead, personal property lists and affidavits may be transmitted electronically. This legislation has no revenue impact.

Licensing and Regulating Money Transmission and Currency Exchange - No General Fund-State Revenue Impact
Chapter 287, Laws of 2003 (SHB 1455), provides requirements for the licensing and regulation of persons involved in the business of money transmission or currency exchange. Broad authority is granted to the Department of Financial Institutions to regulate money transmitters and currency exchangers, including the power to establish various fees to cover the costs of administering the program. The legislation creates bonding, net worth, and solvency requirements for licensees and certain defined practices are prohibited. Protections are provided for customers of licensees. Criminal penalties are created for certain violations of the act. This legislation does not impact the state general fund but increases fee-related revenue to the Financial Services Regulation Account by $884,000.

Prohibiting Local Governments from Imposing B&O Tax on Intellectual Property - No General Fund-State Revenue Impact
Chapter 69, Laws of 2003 (ESHB 1462), prohibits cities from imposing B&O taxes on the process of creating intellectual property, such as the research in support of software development. This legislation has no state general fund impact but reduces revenues to the city of Seattle by over $3 million.

Modifying Excise Tax Interest Provisions - $614,000 General Fund-State Revenue Increase
Chapter 73, Laws of 2003 (HB 1591), changes the annual period for calculating the interest rate used by the Department of Revenue for assessments and refunds to a period that ends in July rather than October. The starting point for interest payments on overpayments of excise taxes is delayed. The act also removes an exception to the four-year time period for requesting tax refunds that applies to federal contractors. This legislation increases state general fund revenues by $614,000.

Limiting the Taxability of Certain Internet Transactions - $20,000 General Fund-State Revenue Decrease
Chapter 76, Laws of 2003 (SHB 1722), exempts remote sellers from B&O taxes and sales and use tax collection

requirements for transactions via Internet servers owned by unaffiliated businesses. This legislation decreases state general fund revenues by $20,000 and local revenues by $6,000.

Concerning the Cost of a Catch Record Card - No General Fund-State Revenue Impact
Chapter 318, Laws of 2003 (2SHB 1725), requires a $10 fee for an additional or duplicate catch record card and deposits proceeds from the sale of catch record cards in the Wildlife Account. The Department of Fish and Wildlife is required to include provisions for recording marked and unmarked salmon on catch record cards issued after March 31, 2004. Catch record cards issued with a temporary charter stamp are exempt from the new fee and are valid for two consecutive days. This legislation does not impact the state general fund but increases fee-related revenues to the Wildlife Account by $307,000.

Expanding Employment Opportunities for People with Disabilities - No General Fund-State Revenue Impact
Chapter 136, Laws of 2003 (SHB 1813), requires agencies to consider vendors in good standing as part of the bidding process for goods and services. A vendor in good standing is defined as a business owned and operated by a person with a disability or as a community rehabilitation program that has achieved or made progress in enhancing employment opportunities for disadvantaged persons and persons with disabilities. A potential vendor must submit an application with a non-refundable fee of no more than $500 to the Department of General Administration; the fee is deposited to a new account to cover costs in overseeing the program. This legislation does not impact the state general fund but increases revenue to the new account, the Vendor in Good Standing Account, by $62,000.

Improving Passenger Ferry Service - No General Fund-State Revenue Impact
Chapter 83, Laws of 2003 (ESHB 1853), authorizes public transportation benefit areas bordering Puget Sound to operate passenger-only ferries. The legislation grants the authority to impose a 0.4 percent sales and use tax and a 0.4 percent motor vehicle excise tax, both subject to voter approval, to fund passenger-only services. King County is authorized to form a county ferry district and impose regular property taxes of up to $0.75 per thousand dollars of assessed valuation within the district. New public providers are authorized to use the state ferry system facilities. The Utilities and Transportation Commission must consider the potential effect on public agencies operating passenger-only ferry service when granting new private passenger-only ferry operating rights. This legislation does not impact the state general fund but provides authority for increased local revenues.

Regarding Taxation of Persons Providing Chemical Dependency Services - $64,000 General Fund-State Revenue Decrease
Chapter 343, Laws of 2003 (HB 1858), reduces the B&O tax rate from 1.5 percent to 0.484 percent on certain income received by persons who provide certified intensive inpatient or recovery house residential treatment services for chemical dependency. This legislation decreases state general fund revenues by $64,000.

Creating the Commercial Fisheries Permit Buyback Account - No General Fund-State Revenue Impact
Chapter 174, Laws of 2003 (2SHB 1887), authorizes the Fish and Wildlife Commission to establish a fee on three fisheries and directs that all new revenue be used for reimbursing the federal government for a fleet reduction permit buyback program. A new account, the Commercial Fisheries Permit Buyback Account, is created for the deposit of the fees. The requirement that the Department of Fish and Wildlife maintain a maximum of 175 coastal crab licenses is removed. This legislation does not impact the state general fund but increases fee-related revenue to the Commercial Fisheries Buyback Account by $3.2 million.

Providing a Limited Property Tax Exemption for the Use of Facilities by Artistic, Scientific, and Historical Organizations - No General Fund-State Revenue Impact
Chapter 121, Laws of 2003 (HB 1905), allows nonprofit museums and performing arts associations to retain their property tax exemption when they rent their exempt property to others under limited conditions. This legislation does not impact the state general fund but reduces local revenues by a small but indeterminate amount.

Enacting Procedural Enhancements to the Master Settlement Agreement - No General Fund-State Revenue Impact
Chapter 25, Laws of 2003 (SHB 1930), provides enforcement provisions for requirements adopted under the Tobacco Master Settlement Agreement. Tobacco manufacturers are required to certify to the Attorney General that they comply with the requirements for sale of cigarette brands in this state. The Attorney General is required to maintain a directory of cigarette brands that may be sold in this state. The legislation provides penalties for possession or sale of cigarettes not on the directory maintained by the Attorney General. Cigarette wholesalers are required to report cigarette sales and other supporting data. This legislation does not impact the state general fund but increases revenues to the Tobacco Settlement Account by $1.5 million.

Modifying Cigarette Regulatory Provisions - $8,000 General Fund-State Revenue Increase
Chapter 114, Laws of 2003 (SHB 1943), provides that only wholesalers can affix cigarette tax stamps. Criminal penalties for selling cigarettes without a license are increased. Criminal penalties are provided for manufacturing, selling, or possessing for sale, counterfeit cigarettes. This legislation increases state general fund revenue by $8,000.

Clarifying Use Tax Provisions - $60 Million General Fund-State Revenue Decrease
Chapter 5, Laws of 2003 (EHB 1977), exempts repair and other services from use tax when performed on property for which a sales tax exemption already exists for these services. This legislation corrects an error in Chapter 367, Laws of 2002, which made these previously exempt services taxable under the use tax. This legislation reduces state general fund revenues by $60 million and local revenues by $18 million.

Providing Property Tax Exemptions for Nonprofit Organizations Supporting Artists - No General Fund-State Revenue Impact
Chapter 344, Laws of 2003 (HB 2001), exempts from property tax the property of nonprofit organizations that solicit gifts, donations, and grants for individual artists. This legislation does not impact the state general fund but reduces local revenues by $2,000.

Regulating the Sale of Cigarettes - $99,000 General Fund-State Revenue Increase
Chapter 113, Laws of 2003 (SHB 2027), establishes requirements for the delivery of cigarettes ordered by telephone, mail, or the Internet. Criminal penalties are provided for certain cigarette shipping-related activities. Shipping cigarettes without first obtaining proof of age is a class C felony; a second or subsequent offense is a class B felony; and any delivery service that delivers cigarettes without verifying the age and identity of the recipient is guilty of a gross misdemeanor. The criminal profiteering act is applied to unlawful sales and delivery of cigarettes. This legislation is expected to increase compliance with state cigarette tax laws and increases state general fund revenues by $99,000 and revenues to other state funds by $227,000.

Changing Requirements Regarding State and Local Tax to Provide for Municipal B&O Tax Uniformity and Fairness - No General Fund-State Revenue Impact
Chapter 79, Laws of 2003 (EHB 2030), requires cities, working through the Association of Washington Cities, to adopt a model ordinance on municipal B&O taxes to address issues of uniformity and multiple taxation between municipal codes. After December 30, 2004, any city that imposes B&O taxes must first comply with all requirements of the bill or lose the authority to impose the tax. By the start of calendar year 2008, cities that impose B&O taxes must allow businesses to apportion income from non-service activities based on location and from service activities based on a formula with payroll and service income factors. This legislation does not impact state revenues but reduces local revenues by $1.2 million.

Modifying Tobacco Escrow Refund Provisions - No General Fund-State Revenue Impact
Chapter 342, Laws of 2003 (SHB 2038), modifies escrow provisions under the Tobacco Master Settlement Agreement to prevent excessive refunds to non-participating manufacturers. This legislation does not impact the state general fund but is expected to increase revenues to the Tobacco Settlement Account by $2 million.

Establishing Liability for Taxes on Unlawful or Delinquent Insurers or Taxpayer - $40,000 General Fund-State Revenue Increase
Chapter 341, Laws of 2003 (SHB 2040), authorizes the Insurance Commissioner to impose penalties on health maintenance organizations and health care services contractors who fail to pay premium taxes on time. The assessment of penalties is allowed for failure to make timely prepayments on premium taxes. The Insurance Commissioner is authorized to charge interest on unpaid premium taxes and prepayments. Entities or individuals who are unlawfully engaged in the insurance business are subject to the same tax and penalty provisions as are authorized insurers. Premium taxes are limited by making them applicable to only that portion of the premium related to risks or exposures in this state, or to the enrolled participants residing in this state. This legislation increases state general fund revenues by $40,000.

Facilitating License Plate Technology Advances - No General Fund-State Revenue Impact
Chapter 370, Laws of 2003, Partial Veto (HB 2065), requires the Department of Licensing to implement a flat, digitally-printed license plate system and establishes fees to support license plate technologies. This legislation does not impact the state general fund but increases fee-related revenues to the new License Plate Technology Account by $2.2 million.

Revising Provisions Relating to Storm Water Rates and Charges - No General Fund-State Revenue Impact
Chapter 394, Laws of 2003 (ESHB 2088), requires local governments operating storm water sewer facilities to reduce rates and charges by a minimum of 10 percent for any new or remodeled commercial building that utilizes a permissive rainwater harvesting system meeting certain requirements. Counties are prohibited from imposing storm water sewer system rates and charges on property classified as either forestland or as timberland. This legislation does not impact the state general fund but reduces local revenues.

Providing Tax Incentives For Wood Biomass Fuel Production, Distribution, and Sale - No General Fund-State Revenue Impact
Chapter 339, Laws of 2003 (EHB 2146), establishes tax incentives for the production, retail sale, and distribution of wood biomass fuels through 2009. A sales and use tax exemption is provided for the construction of manufacturing facilities. Property and leasehold excise tax exemptions are provided on real and personal property used for the purposes of manufacturing. A preferential B&O tax rate of 0.138 percent is provided to eligible manufacturers. A B&O tax deduction is provided for income derived from the sale of wood biomass fuel. An exemption from sales and use taxes is provided for machinery and equipment used directly in the sale or distribution of wood biomass fuel as well as any associated installation labor costs. This legislation does not impact state revenues in the 2003-05 biennium, as no production of wood biomass fuel is expected for several years.

Taxing Parimutuel Machines – No General Fund-State Revenue Impact
Chapter 27, Laws of 2003, 1st sp.s. (SHB 2192), increases the parimutuel tax rate from 0.52 percent to 1.803 percent on the race meet gross receipts of small licensees, effective January 1, 2004. This legislation does not impact the state general fund but increases revenues to the Horse Racing Commission Account by $181,000.

Extending Commute Trip Reduction (CTR) Incentives - No General Fund-State Revenue Impact
Chapter 364, Laws of 2003 (ESHB 2228), allows a credit against the B&O and public utility taxes to businesses providing ride sharing incentives for employees in CTR programs. A $750,000 annual grant program is established for public and private employers, developers, and property managers for the purpose of trip reduction; awards are to be based on the expected cost-effectiveness of trip-reduction project proposals. The credit and grant program is terminated in 2013. Although the tax credits reduce state general fund revenues, the reductions are offset by transfers from the Multimodal Transportation Account. This legislation reduces revenues to the Multimodal Transportation Account by $6 million.

Authorizing Transportation Financing Alternatives - No General Fund-State Revenue Impact
Chapter 361, Laws of 2003, Partial Veto (ESHB 2231), authorizes several transportation financing measures, including a 5 cent per gallon fuel tax increase; a 15 percent increase in gross weight fees for trucks over 10,000

pounds; an additional 0.3 percent sales tax on motor vehicles; and an option to retain a license plate number at time of replacement for $20. The additional gas tax and additional gross weight fees are deposited to the new Transportation 2003 Account, while the sales tax on motor vehicles and the license plate retention fees are deposited into the Multimodal Transportation Account. The gas tax expires when the bonds sold to pay for the projects on the 2003 transportation project list are paid off. The rates at which refund distributions are calculated for off-road vehicles, snowmobiles, and marine usage are increased by one cent in each of the next five biennia. This legislation does not impact the state general fund but increases revenues to various transportation accounts by $411.7 million. (The Governor vetoed a contingency section that would have voided the part of the legislation concerning license plate fees, if House Bill 2065 [Chapter 370, Laws of 2003, Partial Veto] was enacted.)

Relating to Increasing Revenue - $100.6 Million General-Fund State Increase
Chapter 13, Laws of 2003, 1st sp.s. (EHB 2269), includes a number of provisions that increase state general fund revenues. The legislation requires payment of most excise taxes by the 20th of the month instead of the 25th. Penalties are increased for the underpayment of state excise taxes. Promoters of special events such as auto shows, garden shows, and flea markets are required to verify that vendors at the event are registered with the Department of Revenue. The definition of "successor" is modified for purposes of liability for unpaid excise taxes after a business or its assets are sold. The holding period for certain types of unclaimed property under the Uniform Unclaimed Property Act is reduced from five years to three years. This legislation increases state general fund revenues by $100.6 million.

Providing Tax Incentives for the Retention and Expansion of the Aerospace Industry in Washington State - $25.3 Million General-Fund State
Chapter 1, Laws of 2003, 2nd sp.s. (HB 2294), provides a number of tax preferences to the Washington aerospace industry. B&O tax rates are reduced for manufacturers of commercial airplanes or commercial airplane components. Manufacturers of commercial airplanes or commercial airplane components may take credits against B&O tax liability for pre-production development expenditures. Credits may also be taken against B&O tax liability for purchases of computer software and hardware that was acquired between July 1, 1995, and the effective date of the legislation and that has been used primarily for the digital design and development of commercial airplanes. The legislation provides sales and use tax exemptions for computer hardware, computer peripherals, and software acquired after the effective date of this bill, as well as for the associated installation labor and services costs if the equipment is used primarily in the development, design, and engineering of commercial airplanes or commercial airplane components. Sales and use tax exemptions are provided for the purchase of labor and services rendered in the construction of new buildings, and for the purchase or acquisition of components and fixtures of these buildings by a manufacturer of superefficient airplanes or by a port district for lease to a manufacturer of superefficient airplanes. A leasehold excise tax exemption is provided for these new buildings when constructed by a port district and leased to a manufacturer of superefficient airplanes. A property tax exemption is provided for buildings, machinery, and equipment on port district property when used exclusively for manufacturing superefficient airplanes. Credits may be taken against B&O tax liability for property taxes paid on new buildings and the land under new buildings when used exclusively for manufacturing commercial airplanes or components of commercial airplanes. The B&O rate reductions expire July 1, 2024, or, if the assembly of a superefficient airplane does not begin by the end of calendar 2007, on December 31, 2007. All other tax incentives expire on July 1, 2024. Annual reports on employment, wages, and employee benefits are required from all businesses that benefit from a tax incentive under this bill. The effective date of the bill is made contingent on the signing of a memorandum of agreement regarding an affirmative final decision to site a significant commercial airplane final assembly plant in Washington. This legislation reduces state general fund revenues by $25.3 million and local revenues by $1.4 million in the 2003-05 biennium.

Requesting Congress to Restore the Federal Income Tax Deduction for State and Local Sales Taxes - No General Fund-State Revenue Impact
Substitute House Joint Memorial 4004 requests Congress to restore the itemized deduction for sales taxes available to Washington State residents before 1986. This legislation has no revenue impact.

Removing the Sale of Strong Beer from the Exclusive Jurisdiction of the Liquor Control Board - No General Fund-State Revenue Impact
Chapter 167, Laws of 2003 (SSB 5051), allows the sale of strong beer under the same provisions as regular beer. Previously, strong beer was subject to the same taxes as hard alcohol. This legislation has no revenue impact.

Revising Business and Occupation Taxation for Certain Aviation Businesses – $1.3 Million General Fund-State Revenue Decrease
Chapter 2, Laws of 2003, 1st sp.s. (ESSB 5071), reduces the B&O tax rate from 0.484 percent to 0.275 percent on the sale and repair of equipment used in interstate or foreign commerce by certain Federal Aviation Administration certificated aircraft repair facilities. Businesses using the special tax rate are required to report information on jobs and wages. The lower rate is terminated on July 1, 2006. This legislation reduces state general fund revenues by $1.3 million.

Strengthening Laws of Against Fuel Tax Evasion - No General Fund-State Revenue Impact
Chapter 358, Laws of 2003 (SSB 5190), allows the Washington State Patrol to seize from any unlicensed importer or manufacturer any fuel imported into the state or manufactured in the state, as well as the conveyances in which the fuel is shipped. The penalty is reduced for a single event of using dyed diesel for a taxable purpose from a felony to a gross misdemeanor. Multiple dyed diesel infractions remain a felony. This legislation does not impact the state general fund but increases Motor Vehicle Account revenues by $87,000.

Authorizing An Alternative Local Option Fuel Tax - No General Fund-State Revenue Impact
Chapter 350, Laws of 2003 (ESSB 5247), authorizes a regional transportation investment district to impose the local option fuel tax of 10 percent of the state fuel tax rate, subject to voter approval. This legislation does not impact the state general fund but provides authority to increase local government revenues. Of any new local revenue, 1 percent is deposited in the new Local Administration Account to fund Department of Revenue administrative expenses.

Establishing a Quality Maintenance Fee on Nursing Facilities - $78.2 million General Fund-State Revenue Increase
Chapter 16, Laws of 2003, 1st sp.s. (E2SSB 5341), imposes a quality maintenance fee of $6.50 per patient day on most nursing homes and directs the Department of Social and Health Services to submit a waiver, exempting certain nursing facilities from the fee, to the federal government. This legislation increases state general fund revenues by $78.2 million.

Providing an Ongoing Funding Source for the Community Economic Revitalization Board's Financial Assistance Programs - No General Fund-State Revenue Impact
Chapter 150, Laws of 2003 (SB 5363), directs that all earnings from the Public Works Trust Fund be transferred to the Community Economic Revitalization Board's financial assistance programs beginning July 2005. Because this legislation has no effect until fiscal year 2006, there is no impact to the state general fund in the 2003-05 biennium.

Providing Incentives to Reduce Air Pollution through the Use of Neighborhood Electric Vehicles - No General Fund-State Revenue Impact
Chapter 353, Laws of 2003 (ESB 5450), includes certain electric vehicles that have a top speed of 20-25 miles per hour (mph) in the definition of motor vehicles and prohibits the operation of these vehicles on state highways and roads with a speed limit of over 35 mph. Insurance, drivers license, and seat belts are required. This legislation does not impact the state general fund but increases licensing revenues to various transportation accounts by a total of $67,000.

Regulating Disposition of Returned License Plates - No General Fund-State Revenue Impact
Chapter 359, Laws of 2003 (SSB 5600), authorizes the Department of Licensing (DOL) to provide used or returned license plates to individuals requesting them for non-vehicular uses. DOL is authorized to charge up to $5 to cover the associated postage and handling costs. This legislation does not impact the state general fund but increases Motor Vehicle Account revenues by $5,000.

Authorizing Additional Funding for Local Governments – No General Fund-State Revenue Impact
Chapter 24, Laws of 2003, 1st sp.s, Partial Veto (2ESSB 5659), provides county and city governments with additional and more flexible funding sources. Counties are provided with additional general retail sales and use tax authority, subject to voter approval, of up to 0.3 percent. Forty percent of any revenue received under the new retail sales and use tax must be distributed to cities within the county on a per capita basis. Counties and cities may seek voter approval to increase property tax collections at a rate that exceeds 1 percent for up to six consecutive years. Certain small counties are permitted to opt out of the requirement to plan under the Growth Management Act. Clallam and Jefferson Counties are provided with an additional year by which to complete a review and evaluation of plans and regulations under the Growth Management Act. (The Governor vetoed the provisions pertaining to the Growth Management Act.) This legislation does not impact the state general fund but provides increased revenue authority to local governments.

Providing Tax Incentives to Support the State's Semiconductor Cluster - No General Fund-State Revenue Impact
Chapter 149, Laws of 2003 (SB 5725), creates a number of tax preferences for manufacturing semiconductor materials if a contract is signed for an investment of at least $1 billion in a semiconductor microchip manufacturing facility in Washington. The B&O tax rate for manufacturing semiconductor materials is reduced from 0.484 percent to 0.275 percent, although manufacturers of semiconductor microchips are specifically provided a 100 percent B&O tax credit for the first nine years after the bill takes effect. An exemption is provided for the purchase or use of gases and chemicals used in semiconductor manufacturing from retail sales and use tax. Three additional preferences are provided if employment is maintained at a level that is at least 75 percent of the full employment level for 8 continuous years: an exemption from retail sales and use tax for the construction of new semiconductor manufacturing buildings; credit against B&O tax liability of $3,000 for each employment position in semiconductor manufacturing production; and an exemption from property taxes for machinery and equipment used in manufacturing semiconductor materials. The tax preferences are terminated 12 years after they start. The legislation provides for accountability reporting and a review of the rates, credits, and exemptions. This legislation is effective upon the signing of a contract to construct a significant manufacturing facility and is not expected to impact the state general fund in the 2003-05 biennium.

Reporting Abandoned Property - No General Fund-State Revenue Increase
Chapter 237, Laws of 2003 (SSB 5737), increases the value threshold from $25 to $50 at which a business must provide to the Department of Revenue (DOR) names and addresses of unclaimed property owners and attempt to notify apparent owners. The number of times that DOR must publish in a newspaper the list of people owning unclaimed property is reduced from two to one. This legislation has no revenue impact.

Implementing the Streamlined Sales and Use Tax Agreement - $4.2 Million General Fund-State Revenue Increase
Chapter 168, Laws of 2003 (SB 5783), enacts an extensive set of changes recommended in the Streamlined Sales and Use Tax Agreement developed by a number of states to simplify and improve state and local sales taxes. Changes are made in the sales and use tax treatment of delivery charges, eyeglass frames, prosthetic items, fruit and vegetable juices, and bottled water that will have at least moderate effects on amounts of taxes due. Other changes are made that affect the definitions and administrative provisions for sales and use taxes, but do not substantially affect amounts of taxes due. The Streamlined Sales and Use Tax Agreement provisions that would change which local government receives sales tax revenue for goods shipped to a customer address are not implemented; instead, the legislation provides for a study of this issue. This legislation increases state general fund revenues by $4.2 million and local government revenues by $1.2 million.

Authorizing Cigarette Tax Contracts Between the State and Additional Indian Tribes - No General Fund-State Revenue Impact
Chapter 236, Laws of 2003 (SSB 5933), adds the Samish Indian Nation, the Quileute Tribe, and the Kalispel Tribe to the list of tribes with which the Governor may make cigarette tax contracts. This legislation has no revenue impact.

Increasing Certain Assessments and Penalties Imposed by Courts - No General Fund-State Revenue Impact
Chapter 380, Laws of 2003 (ESSB 6023), increases the additional penalty on traffic infractions from $10 to $20. The first penalty assessments on fines, forfeitures, and penalties by courts of limited jurisdiction are increased from 60 percent to 70 percent of the fine. This legislation does not impact the state general fund but increases Public Safety and Education Account revenues by $16.7 million and local government revenues by $4.3 million.

Authorizing Special Assessments to Fund Convention and Trade Promotion - No General Fund-State Revenue Impact
Chapter 148, Laws of 2003 (ESSB 6026), authorizes the establishment of tourism promotion areas in counties with populations of more than 40,000 but less than one million persons, and in cities and towns within such counties. Local governments that establish tourism promotion areas are provided the authority to impose a charge on lodging of up to $2 per room per night within the areas to fund the promotion of conventions and tourism in the areas. This legislation does not impact state general fund revenues but increases local government funding authority.

Adjusting Fees, Taxes, and Penalties for Pilots and Aircraft - No General Fund-State Revenue Impact
Chapter 375, Laws of 2003 (SB 6056), adjusts fees, taxes, and penalties for pilots and aircraft. Pilot, airmen, and airwomen annual registration fees are increased from $8 to $15. The additional revenues are used to fund airport maintenance during the 2003-05 biennium. Annual aircraft registration fees are increased from $8 to $15. The aircraft fuel tax is modified to a volumetric basis and is set at a fixed rate of 10 cents per gallon. Aircraft owners are required to notify the Department of Transportation of a change in ownership of a registered aircraft within 30 days. Aircraft owners are required to show proof of registration before an airport may lease or sell tie-down or hangar space to the owner. Civil penalties are established for failure to register as a pilot or to register an aircraft. This legislation does not impact the state general fund but increases Aeronautics Account revenues by $1.1 million.

Modifying the Distribution of State Property Taxes - $188.3 Million General Fund-State Revenue Increase
Chapter 19, Laws of 2003, 1st sp.s. (ESSB 6058), changes the per full-time equivalent (FTE) student allocations from the Student Achievement Fund from $450 in the 2004-05 school year to $254 per FTE student in the 2004-05 school year; $300 per FTE student in the 2005-06 school year; $375 per FTE student in the 2006-07 school year; and $450 per FTE student in the 2007-08 school year. The per student allocation is increased by inflation after the 2007-08 school year. This legislation reallocates $188.3 million in revenues from the Student Achievement Account to the state general fund in the 2003-05 biennium.

Requesting Congress to Restore the Sales Tax Deduction for Federal Income Taxes - No General Fund-State Revenue Impact
Senate Joint Memorial 8003 asks Congress to restore the federal income tax itemized deduction for sales taxes, which was available to citizens of Washington State prior to 1986. This legislation has no revenue impact

Washington State Omnibus Operating Budget

2001-03 Expenditure Authority vs. 2003-05 Budget

TOTAL STATE

(Dollars in Thousands)

	General Fund-State			Total All Funds		
	2001-03	2003-05	Difference	2001-03	2003-05	Difference
Legislative	129,818	129,628	-190	136,110	136,394	284
Judicial	75,506	78,492	2,986	143,081	162,179	19,098
Governmental Operations	382,407	411,360	28,953	2,685,541	2,726,495	40,954
Other Human Services	1,254,397	1,328,153	73,756	3,491,299	3,629,216	137,917
DSHS	6,217,485	6,605,069	387,584	14,867,122	15,840,269	973,147
Natural Resources	333,375	297,097	-36,278	1,130,532	1,104,638	-25,894
Transportation	40,554	48,834	8,280	107,503	123,957	16,454
Public Schools	9,891,097	10,104,649	213,552	11,604,575	11,906,608	302,033
Higher Education	2,731,535	2,667,195	-64,340	6,439,578	7,400,500	960,922
Other Education	54,291	39,932	-14,359	110,802	99,594	-11,208
Special Appropriations	1,471,523	1,370,972	-100,551	1,834,368	1,665,908	-168,460
Total Budget Bill	**22,581,988**	**23,081,381**	**499,393**	**42,550,511**	**44,795,758**	**2,245,247**
Appropriations in Other Legislation	100	0	-100	25,100	0	-25,100
Statewide Total	**22,582,088**	**23,081,381**	**499,293**	**42,575,611**	**44,795,758**	**2,220,147**

Note: Includes only appropriations from the Omnibus Operating Budget enacted through the 2003 legislative session.

Washington State Omnibus Operating Budget

2001-03 Expenditure Authority vs. 2003-05 Budget

LEGISLATIVE AND JUDICIAL

(Dollars in Thousands)

	General Fund-State			Total All Funds		
	2001-03	2003-05	Difference	2001-03	2003-05	Difference
House of Representatives	55,385	56,342	957	55,430	56,387	957
Senate	45,662	45,174	-488	45,707	45,219	-488
Jt Leg Audit & Review Committee	4,069	3,344	-725	4,069	3,344	-725
LEAP Committee	2,747	3,455	708	2,950	3,455	505
Office of the State Actuary	0	0	0	2,054	2,616	562
Joint Legislative Systems Comm	13,253	13,507	254	14,959	15,320	361
Statute Law Committee	7,826	7,806	-20	10,065	10,053	-12
Redistricting Commission	876	0	-876	876	0	-876
Total Legislative	**129,818**	**129,628**	**-190**	**136,110**	**136,394**	**284**
Supreme Court	10,987	11,127	140	10,987	11,127	140
State Law Library	3,906	4,095	189	3,906	4,095	189
Court of Appeals	25,618	25,257	-361	25,618	25,257	-361
Commission on Judicial Conduct	1,895	1,828	-67	1,895	1,828	-67
Office of Administrator for Courts	32,330	34,635	2,305	87,556	105,927	18,371
Office of Public Defense	770	1,550	780	13,119	13,945	826
Total Judicial	**75,506**	**78,492**	**2,986**	**143,081**	**162,179**	**19,098**
Total Legislative/Judicial	**205,324**	**208,120**	**2,796**	**279,191**	**298,573**	**19,382**

Washington State Omnibus Operating Budget

2001-03 Expenditure Authority vs. 2003-05 Budget

GOVERNMENTAL OPERATIONS

(Dollars in Thousands)

	General Fund-State			Total All Funds		
	2001-03	2003-05	Difference	2001-03	2003-05	Difference
Office of the Governor	8,467	7,549	-918	12,568	12,543	-25
Office of the Lieutenant Governor	877	1,098	221	877	1,098	221
Public Disclosure Commission	3,756	3,561	-195	3,756	3,561	-195
Office of the Secretary of State	16,931	41,428	24,497	35,548	81,907	46,359
Governor's Office of Indian Affairs	548	467	-81	548	467	-81
Asian-Pacific-American Affrs	417	388	-29	417	388	-29
Office of the State Treasurer	0	0	0	12,870	13,149	279
Office of the State Auditor	1,952	1,403	-549	43,984	45,133	1,149
Comm Salaries for Elected Officials	227	240	13	227	240	13
Office of the Attorney General	8,884	8,166	-718	164,976	182,263	17,287
Caseload Forecast Council	1,231	1,277	46	1,231	1,277	46
Dept of Financial Institutions	0	0	0	24,392	28,442	4,050
Dept Community, Trade, Econ Dev	130,616	122,260	-8,356	382,713	396,606	13,893
Economic & Revenue Forecast Council	1,011	1,037	26	1,011	1,037	26
Office of Financial Management	24,944	25,045	101	82,932	75,318	-7,614
Office of Administrative Hearings	0	0	0	23,523	24,669	1,146
Department of Personnel	0	0	0	32,886	42,575	9,689
State Lottery Commission	0	0	0	812,320	705,818	-106,502
Washington State Gambling Comm	0	0	0	29,353	27,284	-2,069
WA State Comm on Hispanic Affairs	441	408	-33	441	408	-33
African-American Affairs Comm	423	397	-26	423	397	-26
Personnel Appeals Board	0	0	0	1,705	1,725	20
Department of Retirement Systems	0	0	0	53,244	48,572	-4,672
State Investment Board	0	100	100	13,461	13,362	-99
Department of Revenue	149,938	164,560	14,622	160,238	175,679	15,441
Board of Tax Appeals	2,200	2,129	-71	2,200	2,129	-71
Municipal Research Council	0	0	0	4,575	4,621	46
Minority & Women's Business Enterp	0	0	0	2,616	1,990	-626
Dept of General Administration	1,195	468	-727	129,649	129,245	-404
Department of Information Services	0	2,000	2,000	207,397	207,447	50
Office of Insurance Commissioner	0	0	0	30,550	32,938	2,388
State Board of Accountancy	0	0	0	1,716	1,985	269
Forensic Investigations Council	0	0	0	276	274	-2
Washington Horse Racing Commission	0	0	0	4,436	4,609	173
WA State Liquor Control Board	2,922	2,909	-13	156,106	159,608	3,502
Utilities and Transportation Comm	0	0	0	30,829	29,481	-1,348
Board for Volunteer Firefighters	0	0	0	569	733	164
Military Department	17,905	16,709	-1,196	143,722	185,462	41,740
Public Employment Relations Comm	4,564	4,758	194	4,564	7,300	2,736
Growth Management Hearings Board	2,958	3,003	45	2,958	3,003	45
State Convention and Trade Center	0	0	0	67,734	71,752	4,018
Total Governmental Operations	**382,407**	**411,360**	**28,953**	**2,685,541**	**2,726,495**	**40,954**

Washington State Omnibus Operating Budget

2001-03 Expenditure Authority vs. 2003-05 Budget

HUMAN SERVICES

(Dollars in Thousands)

	General Fund-State			Total All Funds		
	2001-03	2003-05	Difference	2001-03	2003-05	Difference
WA State Health Care Authority	6,655	0	-6,655	664,413	538,159	-126,254
Human Rights Commission	5,171	4,775	-396	7,065	6,384	-681
Bd of Industrial Insurance Appeals	0	0	0	29,619	30,149	530
Criminal Justice Training Comm	0	0	0	18,756	18,686	-70
Department of Labor and Industries	11,094	11,723	629	457,528	472,499	14,971
Indeterminate Sentence Review Board	1,968	1,960	-8	1,968	1,960	-8
Home Care Quality Authority	171	671	500	171	671	500
Department of Health	112,182	118,367	6,185	649,483	729,616	80,133
Department of Veterans' Affairs	20,144	21,576	1,432	72,144	78,593	6,449
Department of Corrections	1,092,010	1,164,069	72,059	1,130,568	1,199,364	68,796
Dept of Services for the Blind	3,234	3,534	300	18,293	19,685	1,392
Sentencing Guidelines Commission	1,768	1,478	-290	1,768	1,478	-290
Department of Employment Security	0	0	0	439,523	531,972	92,449
Total Other Human Services	**1,254,397**	**1,328,153**	**73,756**	**3,491,299**	**3,629,216**	**137,917**

Washington State Omnibus Operating Budget

2001-03 Expenditure Authority vs. 2003-05 Budget

DEPARTMENT OF SOCIAL & HEALTH SERVICES

(Dollars in Thousands)

	General Fund-State			Total All Funds		
	2001-03	2003-05	Difference	2001-03	2003-05	Difference
Children and Family Services	456,146	464,034	7,888	839,285	910,037	70,752
Juvenile Rehabilitation	161,432	146,792	-14,640	229,869	204,951	-24,918
Mental Health	595,283	674,685	79,402	1,157,015	1,229,646	72,631
Developmental Disabilities	627,447	678,562	51,115	1,203,569	1,291,739	88,170
Long-Term Care	1,019,659	1,128,314	108,655	2,089,076	2,314,357	225,281
Economic Services Administration	849,956	815,547	-34,409	2,247,657	2,059,185	-188,472
Alcohol & Substance Abuse	72,399	80,640	8,241	230,394	232,354	1,960
Medical Assistance Payments	2,273,314	2,450,197	176,883	6,550,231	7,256,903	706,672
Vocational Rehabilitation	20,506	20,382	-124	103,051	106,625	3,574
Administration/Support Svcs	55,237	61,894	6,657	104,204	108,456	4,252
Payments to Other Agencies	86,106	84,022	-2,084	112,771	126,016	13,245
Total DSHS	**6,217,485**	**6,605,069**	**387,584**	**14,867,122**	**15,840,269**	**973,147**
Total Human Services	**7,471,882**	**7,933,222**	**461,340**	**18,358,421**	**19,469,485**	**1,111,064**

Washington State Omnibus Operating Budget

2001-03 Expenditure Authority vs. 2003-05 Budget

NATURAL RESOURCES

(Dollars in Thousands)

	General Fund-State			Total All Funds		
	2001-03	2003-05	Difference	2001-03	2003-05	Difference
Columbia River Gorge Commission	777	684	-93	1,526	1,347	-179
Department of Ecology	73,629	66,727	-6,902	320,232	316,611	-3,621
WA Pollution Liab Insurance Program	0	0	0	2,150	1,894	-256
State Parks and Recreation Comm	62,530	59,962	-2,568	99,817	103,146	3,329
Interagency Comm for Outdoor Rec	323	2,502	2,179	14,270	24,260	9,990
Environmental Hearings Office	1,668	1,883	215	1,668	1,883	215
State Conservation Commission	4,272	4,479	207	7,770	6,641	-1,129
Dept of Fish and Wildlife	90,703	81,632	-9,071	288,030	277,840	-10,190
Department of Natural Resources	84,281	64,540	-19,741	304,162	280,145	-24,017
Department of Agriculture	15,192	14,688	-504	90,907	90,871	-36
Total Natural Resources	**333,375**	**297,097**	**-36,278**	**1,130,532**	**1,104,638**	**-25,894**

Washington State Omnibus Operating Budget

2001-03 Expenditure Authority vs. 2003-05 Budget

TRANSPORTATION

(Dollars in Thousands)

	General Fund-State			Total All Funds		
	2001-03	2003-05	Difference	2001-03	2003-05	Difference
Washington State Patrol	29,838	38,860	9,022	73,066	88,373	15,307
Department of Licensing	10,716	9,974	-742	34,437	35,584	1,147
Total Transportation	**40,554**	**48,834**	**8,280**	**107,503**	**123,957**	**16,454**

Washington State Omnibus Operating Budget

2001-03 Expenditure Authority vs. 2003-05 Budget

EDUCATION

(Dollars in Thousands)

	General Fund-State			Total All Funds		
	2001-03	2003-05	Difference	2001-03	2003-05	Difference
OSPI & Statewide Programs	51,480	41,538	-9,942	209,371	129,190	-80,181
General Apportionment	7,514,713	7,945,276	430,563	7,514,713	7,945,276	430,563
Pupil Transportation	404,421	411,917	7,496	404,421	411,917	7,496
School Food Services	6,200	6,200	0	307,192	383,061	75,869
Special Education	830,428	861,198	30,770	1,125,443	1,270,835	145,392
Traffic Safety Education	4,278	0	-4,278	4,278	0	-4,278
Educational Service Districts	9,328	7,075	-2,253	9,328	7,075	-2,253
Levy Equalization	296,720	329,309	32,589	296,720	329,309	32,589
Elementary/Secondary School Improv	0	0	0	199,660	46,198	-153,462
Institutional Education	36,917	37,688	771	45,465	37,688	-7,777
Ed of Highly Capable Students	12,716	13,211	495	12,716	13,211	495
Student Achievement Program	0	0	0	391,213	398,203	6,990
Education Reform	67,149	74,767	7,618	128,220	204,129	75,909
Transitional Bilingual Instruction	86,909	101,853	14,944	106,664	148,162	41,498
Learning Assistance Program (LAP)	135,323	129,436	-5,887	265,954	436,614	170,660
Block Grants	23,195	0	-23,195	23,195	0	-23,195
State Flexible Education Funds	20,612	0	-20,612	20,612	0	-20,612
Better Schools Program	8,996	0	-8,996	8,996	0	-8,996
Compensation Adjustments	381,712	145,181	-236,531	381,958	145,740	-236,218
Common School Construction	0	0	0	148,456	0	-148,456
Total Public Schools	**9,891,097**	**10,104,649**	**213,552**	**11,604,575**	**11,906,608**	**302,033**

Washington State Omnibus Operating Budget
2001-03 Expenditure Authority vs. 2003-05 Budget
PUBLIC SCHOOLS

(Dollars in Thousands)

	General Fund-State			Total All Funds		
	2001-03	2003-05	Difference	2001-03	2003-05	Difference
Higher Education Coordinating Board	264,129	312,297	48,168	279,914	329,640	49,726
University of Washington	679,674	631,212	-48,462	2,925,540	3,624,733	699,193
Washington State University	395,169	375,219	-19,950	817,324	864,579	47,255
Eastern Washington University	89,241	83,044	-6,197	162,729	160,199	-2,530
Central Washington University	85,572	81,156	-4,416	175,149	181,036	5,887
The Evergreen State College	49,513	46,449	-3,064	88,824	90,620	1,796
Spokane Intercoll Rsch & Tech Inst	2,896	2,822	-74	4,223	2,922	-1,301
Western Washington University	117,700	109,182	-8,518	235,470	254,158	18,688
Community/Technical College System	1,047,641	1,025,814	-21,827	1,750,405	1,892,613	142,208
Total Higher Education	**2,731,535**	**2,667,195**	**-64,340**	**6,439,578**	**7,400,500**	**960,922**
State School for the Blind	9,174	9,255	81	10,428	10,590	162
State School for the Deaf	15,093	15,137	44	15,325	15,369	44
Work Force Trng & Educ Coord Board	3,391	3,282	-109	48,877	57,571	8,694
State Library	12,000	0	-12,000	18,976	0	-18,976
Washington State Arts Commission	5,661	4,500	-1,161	6,664	5,526	-1,138
Washington State Historical Society	5,851	4,867	-984	7,411	7,647	236
East Wash State Historical Society	3,121	2,891	-230	3,121	2,891	-230
Total Other Education	**54,291**	**39,932**	**-14,359**	**110,802**	**99,594**	**-11,208**
Total Education	**12,676,923**	**12,811,776**	**134,853**	**18,154,955**	**19,406,702**	**1,251,747**

Washington State Omnibus Operating Budget

2001-03 Expenditure Authority vs. 2003-05 Budget

SPECIAL APPROPRIATIONS

(Dollars in Thousands)

	General Fund-State			Total All Funds		
	2001-03	2003-05	Difference	2001-03	2003-05	Difference
Bond Retirement and Interest	1,211,070	1,249,251	38,181	1,382,942	1,439,607	56,665
Special Approps to the Governor	111,369	18,249	-93,120	208,773	81,015	-127,758
Sundry Claims	764	18	-746	785	383	-402
State Employee Compensation Adjust	103,943	48,284	-55,659	197,491	89,733	-107,758
Contributions to Retirement Systems	44,377	55,170	10,793	44,377	55,170	10,793
Total Special Appropriations	**1,471,523**	**1,370,972**	**-100,551**	**1,834,368**	**1,665,908**	**-168,460**

Functional Areas of Government

LEGISLATIVE

Appropriations for the 2003-05 biennium for the state's legislative agencies, including the House of Representatives, the Senate, and the statutory legislative committees, provide carryforward funding for the statutory and constitutional duties of these agencies. In order to attain administrative efficiencies, legislative agency budgets are reduced for FTE staff years, salaries, benefits, and other operating costs commensurate with other state agencies.

JUDICIAL

Office of the Administrator for the Courts
Building on improvements funded by the Legislature in the 2001–03 biennium, $12.6 million is appropriated from the Judicial Information Systems Account to migrate the Judicial Information System to a web-based system, provide juvenile parole case management, and other improvements. These projects will assist courts statewide and prevent the need for local courts to develop stand-alone systems.

Office of Public Defense
The operating budget provides $1.6 million to continue the dependency and termination pilot project implemented in 2000. Initial results of the project indicate adoption and foster care savings to the state, increases in the rate of family reunifications, and decreases in the rate of termination of parental rights.

GOVERNMENTAL OPERATIONS

Office of the Secretary of State
The operating budget reduces funding for the State Library by 12.5 percent. This reduction preserves funding for assistance to local libraries, historic and northwest collections, state and federal document depositories, and the Washington Talking Book and Braille Library. Funding is also restored for library services to state institutions.

Pursuant to Chapter 48, Laws of 2003 (ESB 5374), the budget authorizes the Office of the Secretary of State to spend $13.1 million of federal funding anticipated to be received for Title I of the federal Help America Vote Act of 2002. The federal funds are intended to cover some of the costs of changing voting equipment, including eliminating punch card ballots, providing handicapped-accessible machines and touch screens in every county, and improving administration of federal elections and increased oversight of local elections.

Department of Community, Trade, and Economic Development
The operating budget provides $2.55 million for enhanced business retention and expansion, assistance to small manufacturing businesses, continuing cluster-based economic development, foreign trade offices, expanded tourism opportunities, local economic development, and various other projects.

Department of Personnel
The Department of Personnel is provided with $10.6 million from the Data Processing Revolving Fund-State to begin the development of a new statewide payroll and human resource information system. A surcharge will be added to client agencies' revolving fund assessments to fund the project. In addition to the funds provided, the department is authorized to enter into a financing contract for the payroll and human resource information system of up to $32.1 million.

Department of Revenue
The sum of $6.18 million is provided to the Department of Revenue for additional revenue enforcement efforts. Strategies may include, but are not limited to, additional taxpayer education, audit activity, tax discovery efforts, and delinquent account collections. Positions funded include auditors, revenue agents, excise tax examiners, one hearings examiner, and one field audit manager. This item is expected to produce $32.0 million in revenue for the state general fund in the 2003-05 biennium.

Liquor Control Board
In the 2001-03 biennium, the Legislature appropriated one-time funding for new point-of-sale technology, the Merchandising Business System (MBS). Additional funding of $1.3 million is provided from the Liquor Revolving Account to purchase MBS software licenses, provide training, and hire technical staff to support the system. The MBS will allow tracking of all state store retail sales and facilitate forecasting and data analysis, which should enable more effective purchasing and business practices.

Appropriation authority of $5.7 million from the Liquor Revolving Account is provided for the Liquor Control Board to open five new liquor stores in areas that are underserved due to rapid population growth, to relocate 13 existing liquor stores to more convenient and marketable locations, and to avoid closure and reductions in store hours.

Military Department
Based on recent congressional action, $43.6 million in total federal funding is available to assist Washington State in improving homeland security, with no state or local matching fund requirements. The funding is intended for prescribed equipment, exercises, training, and competitive grants. Over 80 percent of the total federal funds are for distribution to local governments. State uses of funding include terrorism and consequence management efforts, support for the Community Emergency Response Training (CERT)/Citizen Corps Program, and enhancements to security at the state capital. The Military Department will receive the funds and distribute them as determined by the Adjutant General and the Governor's Homeland Security Executive Group in conjunction with federal requirements and approval.

The operating budget provides $11.2 million in funding from the Enhanced 911 Account to assist local governments with providing enhanced 911 (E911) services, which allow responders to automatically determine a caller's location. An increased level of support for 33 counties is provided to meet new federal requirements that E911 systems work with wireless calls and to update equipment for wireline calls. These counties currently collect the maximum local taxes permitted by law to cover E911 expenses but are not able to cover minimum service requirements.

DEPARTMENT OF SOCIAL & HEALTH SERVICES

Children and Family Services
The budget saves a total of $2.1 million in state and federal funds by placing more children with relatives who otherwise would be in foster care. Chapter 284, Laws of 2003, Partial Veto (SHB 1233), requires the department to increase efforts to place children with relatives, which is less costly than placing children in traditional foster care.

The budget saves $259,000 in state general funds by instituting a more efficient reimbursement methodology for beds in Homeless, Youth Prevention/Protection, and Engagement Act (HOPE) centers. Each provider will receive a reimbursement of $1,000 per bed per month as a base payment, and the rest of the reimbursement will be paid only when the beds are occupied. This savings is a result of the current 43 percent occupancy rate for HOPE beds.

A total of $6.4 million in state and federal funds is provided for an increase in services for foster children who are being placed in higher levels of care.

The budget provides $1.4 million in state and federal funds for improved and expanded training for foster parents. Enhanced training will enable foster parents to better respond to the needs of the children in their care and is intended to reduce attrition among foster homes.

The budget achieves $2.9 million in General Fund-State savings due to a new federal tax credit for families adopting special needs children. New adoption support cases, with family incomes large enough to benefit from at least a portion of the $10,000 tax credit, will receive a lower state adoption support level that takes into account the added federal tax credit.

Juvenile Rehabilitation Administration

Savings in the amount of $3.3 million are achieved through the implementation of Chapter 378, Laws of 2003, Partial Veto (ESSB 5903), which provides juvenile offenders with local disposition alternatives to secure placement in Juvenile Rehabilitation Administration (JRA) facilities. Funding in the amount of $1.2 million is provided to local juvenile courts to implement the disposition alternatives. When these caseload savings are combined with reductions assumed in the February 2003 caseload forecast adopted by the Caseload Forecast Council, the JRA residential population is expected to decline to 921 offenders during the 2003-05 biennium. This represents an 11.1 percent reduction from the 2001-03 biennium.

Consistent with the Washington State Institute for Public Policy's 2002 findings on intensive parole services, funding for intensive parole is reduced by $1.9 million. These savings are achieved by increasing the size of intensive parole caseloads from 12 parolees to 20 parolees, the same level as for enhanced and sex offender parole. Funding in the amount of $943,000 is provided to JRA for research-based therapies for parolees and youth transitioning out of state institutions and into the community.

State financial support for the Consolidated Juvenile Services contract, which provides local juvenile courts with funding for diversion, probation supervision, treatment programs, and other services, is reduced by $1.3 million, commensurate with declining juvenile adjudications and diversions.

Funding in the amount of $13.2 million for truancy, at-risk youth, and child-in-need-of-services petitions is shifted from JRA to the Office of the Administrator for the Courts.

The Governor vetoed Section 203(7) of Chapter 25, Laws of 2003, 1st sp.s., Partial Veto (ESSB 5404), which would have provided federal Juvenile Accountability Incentive Block Grant funding for the continuation of a pilot program for the post-release planning and treatment of juvenile offenders with co-occurring disorders.

Mental Health

To keep pace with growth in the number of persons enrolled in Medicaid, total funding for counseling, case management, residential and hospital care, and other community mental health services provided through Regional Support Networks (RSNs) is increased by $51.7 million (14.0 percent). The cost of this increase is partially offset by:

- Eliminating $2.9 million in total funding for annual grants to assist local communities in maintaining and expanding their capacity to provide emergency psychiatric services and community hospitals;
- Avoiding $4.3 million of projected expenditure increases through increased efforts to assure that recipients of publicly-funded medical assistance meet applicable income, residency, and other eligibility requirements;
- Requiring families with incomes over the poverty level to pay monthly premiums for their children's medical, dental, and vision coverage, resulting in $4.2 million of reduced expenditures in the Mental Health program as a result of fewer children being eligible for Medicaid services; and
- Limiting RSN and provider administrative expenditures to 10 percent of total funding, for total savings of $5.8 million.

In addition, the budget provides $200,000 in total funding for the Mental Health Program to: (1) address the recommendations included in the Joint Legislative Audit and Review Committee's study on children's mental health

services; and (2) provide training and case management activities associated with the implementation of mental health advance directive legislation.

Special Commitment Center

Consistent with the direction from the federal court, $2.4 million in funding is provided for the Department of Social and Health Services to operate an additional Secure Community Transition Facility (SCTF) in a location other than McNeil Island. This level of funding assumes initial occupancy by October 1, 2003, and a projected population of six residents by the end of the biennium. Staffing ratios for the facility will be one staff per resident during waking hours and two staff per three residents during sleeping hours.

With respect to the SCTF located on McNeil Island, savings of $2.2 million were achieved by: (1) removing the roving patrol car support provided by the Washington State Patrol; and (2) reducing the staffing ratio at the SCTF to one staff per three residents during normal waking hours, and one staff per four residents during normal sleeping hours.

In addition, $1.2 million in funding was provided for the purchase of a used passenger vessel to accommodate additional staff traveling to McNeil Island as a result of the newly-constructed Special Commitment Center.

Developmental Disabilities

Building upon past efforts to enable integrated community living for clients with developmental disabilities, the 2003-05 budget provides funding for increased community residential housing and supports, including personal care services, as follows:

- $2.2 million in total funding for 11 developmentally disabled clients with community protection issues who are being diverted or discharged from the state psychiatric hospital;
- $2.5 million in total funding for 14 clients who are: (1) currently without residential services and are in crisis or at risk of needing institutional placement; or (2) residents of Residential Habilitation Centers (RHCs) who choose to live in community settings; and
- $4.7 million in total funding for 38 residents of RHCs who choose to move to community settings.

As a result of increased placements in the community along with the continued decline in the number of residents at state-operated RHCs, the budget directs the department to consolidate RHC vacancies across the five state facilities in order to downsize Fircrest School. To minimize disruption to clients, employees, and the Developmental Disabilities Program, $2.5 million in total funding is provided for costs associated with development and implementation of a transition plan, review of transition opportunities for dislocated state employees, and for additional staffing required by the downsizing effort.

State funding for persons with developmental disabilities receiving services in the home through Medicaid Personal Care (MPC) is increased by $18.9 million (17 percent) over the level budgeted for the 2001-03 biennium. This increase is partially offset by: (1) raising the functional eligibility requirement for state savings of $1.5 million; and (2) reducing the caseload to reflect departmental efforts to ensure that children receiving MPC services meet eligibility criteria for state savings of $1.6 million.

The budget eliminates $9.9 million in state funding attributable to the court denial of the ARC's and the Department of Social and Health Services' joint motion for preliminary approval of a settlement regarding developmental disability services in December of 2002.

Long-Term Care Services

A total of $2.3 billion is appropriated for the Department of Social and Health Services (DSHS) to provide long-term care services to an average of 48,000 elderly and disabled adults per month. This represents a 4.1 percent increase in the number of persons receiving such services, and a 10.8 percent increase in expenditures from the 2001-03 biennium. Major increases include:

- $44.9 million to provide increased wages for home care workers who provide direct care to persons in their own homes.
- $91.7 million to provide increased nursing home payment rates. Of this total, $58.6 million will reimburse Medicaid facilities for a new fee of $6.50 per patient day, levied pursuant to Chapter 16, Laws of 2003, 1st sp.s. (E2SSB 5341). The remaining $33.1 million will fund a 3.0 percent increase in non-capital nursing home payment rates.

Growth in the Long-Term Care Program is mitigated through the implementation of several cost containment initiatives.

A total of $10.4 million in savings is achieved by limiting growth in the Community Options Program Entry System (COPES) waiver to 1.1 percent per year and establishing prioritized waiting lists for future enrollments in excess of these growth limits.

Additionally, $3.7 million is saved by increasing functional eligibility standards for the MPC Program. Persons who require only minimal assistance with two activities of daily living will no longer be eligible for MPC services. Persons currently receiving care in community residential settings who do not meet the higher eligibility standard will continue to be served without matching federal funds.

Savings in the amount of $9.9 million are achieved by modifying spousal asset limits for married persons applying for Medicaid-funded long-term care. In accordance with Chapter 28, Laws of 2003, 1st sp.s. (ESHB 2257), DSHS will disregard up to $40,000 in liquid assets of the spouse not receiving care when determining whether the spouse receiving care is eligible for Medicaid. Previously, Washington's spousal asset limit was set at $90,660, which is the maximum allowable under federal guidelines.

Economic Services Administration

The budget provides $9.1 million in federal funds for a new reimbursement methodology for county clerks who file child support orders for the state. This new methodology will increase reimbursements by 175 percent and compensate counties more equitably for the services they provide to families through child support filings.

The budget saves a total of $13.7 million General Fund-State ($6.6 million in Economic Services and $7.1 million in Medical Assistance) by implementing Chapter 10, Laws of 2003, 1st sp.s. (HB 2252). This legislation requires General Assistance clients to demonstrate continuation of their medical or mental condition and ongoing need for cash and medical benefits.

Alcohol and Substance Abuse

The budget provides $9 million from the Criminal Justice Treatment Account for offender substance abuse treatment. These funds will be disbursed through county managed drug and alcohol treatment programs, pursuant to the distribution formula set by the Criminal Justice Treatment Account Panel.

The budget reduces funding for the Treatment Accountability for Safe Communities Program (TASC). The remaining $2 million allocated for TASC will be distributed to counties with TASC programs. Those counties will continue the budget policy adopted in the 2002 supplemental budget by integrating their TASC and drug court funding, so as to have the greatest success in diverting offenders into successful treatment and recovery.

The budget eliminates $2 million for the expansion of treatment services for persons defined as gravely disabled. Gravely-disabled individuals are people in danger of serious physical harm resulting from a failure to provide for their essential human needs of health or safety which manifests in severe deterioration in routine functioning, or who are high utilizers of treatment services and other resources.

Medical Assistance

After adjusting for intergovernmental transfer revenues to the Health Services Account, the 2003-05 budget provides a total of $7.0 billion in state and federal funds for an average of about 900,000 persons per month to receive medical, dental, and vision care services through Medicaid and other DSHS medical assistance programs. Total expenditures on such services are budgeted to increase by $951 million (16 percent) from the 2001-03 level, and the state share of those expenditures is projected to increase by $338 million (12 percent).

The budget implements a number of changes in eligibility practices and service coverage policies in order to reduce the growth in future Medical Assistance expenditures. Proposed changes include the following:

- Eliminating the Medically Indigent Program and partially replacing the state-funded, open-ended entitlement program with $58.4 million in lidded grants to hospitals that serve a disproportionate share of low-income and medically-indigent patients. Of the new amount provided, $6.2 million in funding is dedicated to rural hospitals.
- Reducing the scope of dental benefits provided to adult medical assistance clients by 25 percent.
- Requiring families with incomes over the federal poverty level to pay monthly premiums for their children's medical, dental, and vision coverage. Premiums will range from $15 per child per month to $25 per child per month, depending on the family income. As a result of this change, medical assistance state expenditures are projected to be reduced by $32.9 million by the end of the biennium.
- Increasing efforts by the Department to assure that recipients of publicly-funded medical assistance meet applicable income, residency, and other eligibility requirements, resulting in 19,000 fewer eligible clients and $23.2 million less in net state expenditures.
- Discontinuing benefits to GA-U clients unless the client can demonstrate that their medical or mental condition has not improved and they therefore continue to need cash grants and medical assistance.
- Reducing the number of aged and disabled clients qualifying for Medicaid coverage by: (1) limiting growth in the COPES long-term care waiver to 1.1 percent per year; and (2) reducing the amount of cash, savings, and other liquid assets which a couple may retain and still qualify for publicly-funded medical care. These two efforts are projected to result in $3.7 million in state savings over the biennium.

Besides changes to eligibility and services, increases in state spending would have been larger, but for several other substantial reductions included as part of the 2003-05 budget:

- Recent federal guidelines allow the state to use federal Children's Health Insurance Program (SCHIP) funds to cover prenatal care costs for low-income women who are not eligible for Medicaid because of their immigration status. This avoids $37.8 million in state-fund expenditures.
- Managed care payment rate increases are limited to 1.5 percent in calendar year 2004 and 5.0 percent in calendar year 2005, as compared to past average annual increases of 8 to 9 percent resulting in $50.1 million in state savings.
- The rate of growth in state drug expenditures is to be reduced through increased efforts to prioritize the purchase of less costly and effective brands, thereby also creating a financial incentive for manufacturers of more expensive brands to provide additional price discounts to the state.

Other Human Services

Basic Health Plan

State expenditures are reduced by dropping the number of persons covered by the program and by increasing the share of benefit costs that is borne by enrollees. Enrollment is gradually reduced from approximately 121,000 enrollees at the beginning of the 2003-05 biennium by limiting new admissions until a budgeted enrollment level of 100,000 enrollees is achieved. This is projected to occur by February 2004. Beginning in 2004, the state cost of covered benefits will be reduced by approximately 18 percent by raising enrollee premiums, co-pays, and deductibles.

Prescription Drug Purchasing

The Medical Assistance Administration, the Health Care Authority, and the Department of Labor and Industries will consolidate their drug purchasing by jointly developing a list of drugs in each of at least 16 therapeutic classes to be prioritized for state-agency purchase. The prioritized list will be based upon safety, efficacy, and cost, and will be developed by a statewide pharmacy and therapeutics committee consisting of nine professional members. This is expected to reduce the growth in state drug expenditures by $84 million ($30 million state funds) across the three agencies.

A pharmacy connection program will be established by the Health Care Authority through a contract with a university or other qualified organization to link state residents with manufacturer-sponsored drug assistance programs. This new program will employ staff, students, and volunteers to help persons who do not have prescription drug coverage in identifying and applying for the particular manufacturer-sponsored program which best fits the individual's income level and pharmaceutical needs.

Criminal Justice Training Commission

Funding in the amount of $250,000 is provided for the Washington Association of Sheriffs and Police Chiefs to staff and support a web site with information about registered sex offenders.

Department of Labor and Industries

Enhanced Collections

The operating budget appropriates $1 million to the Department of Labor and Industries (L&I) for additional staff and support for the Collections Unit, which is responsible for all collections activity related to employers who do not pay proper workers' compensation premiums or do not pay fines for worker safety violations; the Provider Fraud Investigation Program, which audits, investigates, and gathers information on alleged frauds and abuse; and the Third Party Unit, which recovers costs of workers' compensation claims from liable parties. The additional staff and funds are estimated to increase biennial collections by an additional $8.2 million.

Enhanced Customer Service

In the 2001–03 biennium, L&I conducted a feasibility study of methods to exchange workers' compensation claim-related information electronically with employers, health care providers, and workers. The feasibility study supported a comprehensive new system for electronic management of workers' compensation claims and employer information. The operating budget appropriates $9.9 million from the state Medical Aid and Accident Accounts to build the Online Reporting and Customer Access Project, which will allow customers to exchange information and establish and manage workers' compensation claims on-line 24 hours per day.

Home Care Quality Authority

Funding in the amount of $150,000 is provided for the design and development of the home care provider registry required pursuant to Chapter 3, Laws of 2002 (Initiative 775).

The Legislature rejects the collective bargaining agreement entered into by the Home Care Quality Authority and the exclusive bargaining representative of individual home care providers.

Department of Health

The 2003-05 budget includes new funding for the following activities: $1.1 million for policy development and technical assistance regarding new water conservation requirements; $266,000 for an increase in statewide coordination and quality enhancement of local food safety inspection efforts; $2.4 million for increased laboratory testing of newborns; $222,000 for technical assistance to hospitals regarding detection of hearing impairments in newborns; and $150,000 for the design of a state plan for the treatment and prevention of Hepatitis C. Most of these increases are to be supported by increased fees or private contributions, rather than by general state revenues.

The state and local fee for certified copies of birth and death certificates is increased to $17.00. This raises $5.9 million of new revenue, which will be used to: (1) reduce the state subsidy of the vital records and statistics system by $2.4 million; and (2) develop and implement an Internet-based electronic death registration system.

AIDS Prescription Drug Program expenditures are projected to grow at 15 percent per year in 2003-05. About half of the increase results from increased enrollment, and the remainder is primarily due to higher drug costs associated with manufacturer price increases and the introduction of new treatment regimens. The state cost of these expenditure increases is limited to $4.9 million, $1.5 million less than what would otherwise be needed, by requiring recipients to participate in cost-sharing to the maximum extent allowed under the federal Ryan White Care Act.

The 2003-05 budget eliminates state-funded expenditures on the following programs: the Comprehensive Hospital Accounting and Reporting System, for a savings of $1.5 million; the Child Death Review Program, for a savings of $1.0 million; and a tax subsidy for the inspection and testing of recreational shellfish beds, which will instead be funded by a $2.00 increase in recreational shellfish licensing fees.

Department of Corrections

Savings in the amount of $40.1 million are achieved through the implementation of Chapter 379, Laws of 2003 (ESSB 5990), which: (1) advances the effective date of a new drug offender sentencing grid enacted during the 2002 legislative session from July 1, 2004, to July 1, 2003; (2) changes the maximum amount of earned release time that certain offenders may earn from 33 percent of their sentence to 50 percent; (3) reduces the amount of early release time an offender may earn for serious violent and Class A sex offenses from 15 percent to 10 percent of the sentence; (4) shifts responsibility for the billing and collection of outstanding legal financial obligations for offenders under supervision only for this purpose from the Department of Corrections (DOC) to the Office of the Administrator for the Courts and county clerks; and (5) eliminates community supervision for certain low- and moderate-risk offenders. These sentencing changes are expected to result in an additional $1.8 million in savings associated with a reduction in the number of offenders requiring substance abuse treatment.

Funding in the amount of $400,000 is provided to address community corrections officer training issues related to the implementation of the Offender Accountability Act (Chapter 196, Laws of 1999).

DOC, in consultation with the Washington Association of Sheriffs and Police Chiefs (WASPC) and the Department of Social and Health Services, will implement a pilot project to test the availability, reliability, and effectiveness of an electronic monitoring system for sex offenders. Funding in the amount of $100,000 is provided to the Department for the purposes of establishing the pilot project. WASPC is to report on the results of the pilot project by January 31, 2004.

Employment Security Department

A total of $4 million of federal and state funds (non-general fund) are provided to decrease fraud in the unemployment insurance (UI) system. Funds will be used to increase UI benefit overpayment prevention and detection by initiating a social security number cross-match and increasing investigation and collection staff.

Funding is also provided for better services for UI claimants. The amount of $8.7 million of federal and state funds (non-general fund) will be used to expedite the unemployment filing process and re-employment of claimants who are currently drawing UI by providing new technology, effective links to employers, and job search review.

NATURAL RESOURCES

Department of Ecology

The budget assumes that the department will take a variety of actions to reduce operating costs and achieve administrative savings totaling $1.06 million from the state general fund and $1.41 million from other fund sources.

Funding for the processing of applications for changes and transfers of existing water rights is reduced $2 million from the state general fund and increased $1 million from the Water Quality Account for an overall reduction of $1 million for the 2003-05 biennium. In addition, funding for the Flood Control Assistance Account is reduced by 50 percent for the biennium. The remaining funding of $2 million will be used for local government flood damage reduction projects, Comprehensive Hazard Management Plans, flood mapping, technical assistance for the National Flood Insurance Program, and flood damage reduction projects.

The operating budget provides $2 million from the state general fund to the department to provide state funding to local governments to develop, amend, or review their shoreline master programs according to the newly-established staggered schedule for updating the shoreline master programs. The sum of $3 million from the Water Quality Account is reappropriated for watershed planning grants that were originally appropriated and obligated during the 2001-03 biennium, but have not yet been paid out to grant recipients.

State Parks and Recreation Commission
The budget assumes that the commission will take a variety of actions to reduce operating costs and achieve administrative savings totaling $3,008,000 from the state general fund and $842,000 from other fund sources.

The operating budget provides $4,061,000 from the Parks Renewal and Stewardship Account and 50 full-time equivalent staff to implement a system-wide parking fee that the commission instituted on January 1, 2003. Staff will communicate the new payment options and collect the parking fees from day use visitors. The new fee will generate $10 million in new revenue during the 2003-05 biennium.

Interagency Committee for Outdoor Recreation
The budget provides $1,625,000 state general fund and $1,625,000 from the General Fund-Federal to the committee to continue providing grants for the operations of local lead entities established under Chapter 77.85 RCW. The groups solicit habitat improvement and restoration projects, develop habitat project lists, and recommend development and maintenance of habitat work schedules.

Department of Fish and Wildlife
The budget assumes that the department will take a variety of actions to reduce operating costs and achieve administrative savings totaling $3,060,000 from the state general fund and $1,584,000 from other fund sources. In addition, funding of $800,000 in the Enforcement Program is shifted from the state general fund to the Wildlife Account-State, for the 2003-05 biennium. Funding is reduced $1 million from the state general fund for the Enforcement program by maintaining staff vacancies for the biennium.

The operating budget provides $900,000 from the Wildlife Account-State for wetland restoration and landowner incentives to create or maintain habitat for migratory waterfowl. These activities are supported by revenue from an increase in the migratory waterfowl stamp, authorized by Chapter 283, Laws of 2002 (2SSB 6353 - Migratory Bird Stamps).

Funding for the Fish Hatcheries Division is reduced $1,284,000 from the state general fund and increased $642,000 from the Wildlife Account-State for an overall reduction of $642,000. The Department of Fish and Wildlife is not directed to close specified fish hatcheries. The amounts of $450,000 state general fund and $550,000 from other fund sources are provided to implement the Hatchery Scientific Review Group recommendations to reform hatchery programs for the benefit of recovering wild salmon and providing sustainable fisheries.

The operating budget is reduced $850,000 from the state general fund and $200,000 from other fund sources. License sales and customer services staff within each regional office are eliminated, which requires customers to purchase licenses through alternative retail establishments.

Department of Natural Resources
The budget assumes that the department will take a variety of actions to reduce operating costs and achieve administrative savings totaling $2,364,000 from the state general fund and $3,306,000 from other fund sources. In addition, $7.2 million funding for fire suppression is shifted from the state general fund to the Disaster Response Account for the 2003-05 biennium.

The operating budget provides $2.7 million from the state general fund for a lawsuit settlement and purchase of approximately 232 acres of land and timber in Klickitat County from the SDS Lumber Company. The land and timber acquired with this funding will be managed for the benefit of the common schools.

The Department of Natural Resources is provided $1.2 million from the state general fund in a combination of ongoing and one-time funding and staff, to maintain and update computer systems that support salmon recovery, the state's Forest and Fish Report, and basic geographic information system analysis for the Forest Practices Program.

Department of Agriculture
The budget assumes that the department will take a variety of actions to reduce operating costs and achieve administrative savings totaling $431,000 from the state general fund and $1.4 million from other fund sources.

TRANSPORTATION

The majority of funding for transportation services is included in the transportation budget, not in the omnibus appropriations act. The omnibus appropriations act includes only a portion of the funding for the Department of Licensing and the Washington State Patrol. Therefore, the notes contained in this section are limited. For additional information on transportation funding, please see the Transportation Budget section of this document.

Washington State Patrol
A total of $200,000 is provided for two full-time equivalent staff in the State Fire Marshal's office to review K-12 school construction documents for fire and life safety issues. In previous biennia, these staff positions were funded in the capital budget.

Legislation passed this session requires new funding for the addition of wildland firefighter training to the current firefighter one level training curriculum. Chapter 316, Laws of 2003 (SB 5176), provides for the new training, increases the allowable reimbursement hours, and increases the reimbursement rate to fire districts and cities that provide wildland firefighter training as part of the firefighter one level training.

PUBLIC SCHOOLS

Increases

Health Benefits – $116.0 Million General Fund-State
Funding is provided to increase the K-12 monthly benefit rate from $457.07 per employee in the 2002-03 school year to $481.31 in the 2003-04 school year and to $570.74 in the 2004-05 school year.

Beginning Teacher Salary Increases – $29.2 Million General Fund-State
Salary increases are provided for certificated instructional staff that are in their first seven years of teaching. Beginning in the 2004-05 school year, a beginning teacher with a Bachelor of Arts degree will earn an annual salary of at least $30,023.

Truancy Petitions – $3.0 Million Public Safety and Education Account
Funding is provided through the Office of the Administrator for the Courts to reimburse school districts for filing truancy petitions in juvenile court.

Focused Assistance to Schools – $2.6 Million General Fund-State
Funding is provided for 30 additional low-performing schools to receive Focused Assistance, which increases total state funding for the program to $6.1 million.

Digital Learning Commons – $2.0 Million General Fund-State
The Digital Learning Commons will create, in collaboration with schools, a web-based portal where students, parents, and teachers from around the state will have access to digital curriculum resources, learning tools, and on-line classes. Funding is provided through the Department of Information Systems.

Washington Achievers Scholars – $1.0 Million General Fund-State
Funding is provided for the Washington State Achievers Scholarship Program to support community involvement officers who recruit, train, and match community volunteer mentors with high school students selected as achiever scholars. After graduating from high school, the achiever scholars receive college scholarships funded through private grants.

Savings and Reductions

Student Achievement Fund Per Student Allocations – $236.9 Million Student Achievement Fund-State Savings
Initiative 728 allocations to school districts will increase from $211.67 in the 2003-04 school year to $254.00 in the 2004-05 school year, rather than to $450.00 as required under the original Initiative language. In addition, the distributions will be spread over 12 months rather than 10 months. The per student allocations will increase to $300.00 in the 2005-06 school year, $375.00 in the 2006-07 school year, $450.00 in the 2007-08 school year, and will increase by inflation beginning in the 2008-09 school year.

Initiative 732 Cost-of-Living Adjustment – $190.6 Million General Fund-State Savings
The salary increases provided to K-12 employees under Initiative 732 are suspended for the 2003-05 biennium.

Pension Funding Change – $61.4 Million General Fund-State Savings
Savings are achieved by adopting a new actuarial method for smoothing returns on assets for the Public Employees' Retirement System (PERS), the School Employees' Retirement System (SERS), and the Teachers' Retirement System (TRS). The new method varies the length of smoothing of a particular year's gain or loss depending on the difference from the actuarially-assumed rate of investment return. In addition, no contributions will be made towards the unfunded liabilities in the PERS and TRS Plans 1 during FY 2004 and FY 2005.

State Flexible Education Funds – $41.4 Million General Fund-State Savings
For the 2002-03 school year, the state allocated flexible education funds to school districts to supplement basic education. The funds were provided at a rate of $21.55 per student, based on school districts' prior year FTE student enrollment. Beginning with the 2003-04 school year, the flexible education funds are eliminated.

Levy Equalization Allocations – $17.3 Million General Fund-State Savings
State allocations for the Local Effort Assistance Program (levy equalization) are uniformly reduced by 6.3 percent.

Integrate Federal Funds – $17.1 Million General Fund-State Savings
Federal funds to Washington State for special education will increase by $20 million in the 2003-04 school year and an additional $20 million in the 2004-05 school year. A portion of the federal fund increase is incorporated to pay for some of the increased costs of the Special Education Program.

Better Schools Class Size – $13.9 Million General Fund-State Savings
The Better Schools K-4 enhanced staffing ratio is eliminated in the 2004-05 school year. This program provides 0.8 certificated instructional staff for every 1,000 students.

Transportation Depreciation Changes – $10.7 Million General Fund-State Savings
To be eligible for state reimbursement, a school bus purchased on or after July 1, 2003, must be competitively bid based on the lowest solicited price quotes from bus dealers for school buses meeting state and local standards.

Educational Service Districts – $2.0 Million General Fund-State Savings
State funding to Educational Service Districts (ESDs) is reduced. The State Board of Education is encouraged to reduce the number of ESDs from nine to seven through consolidation.

Other Non-Basic Education Reductions – $6.5 Million General Fund-State Savings
A variety of reductions are made in non-basic education programs. Some examples include: assumed administrative efficiencies in the Office of Superintendent of Public Instruction; efficiencies and changes to the Alternative Routes to Certification Program; and reducing state funding for various K-12 training programs.

HIGHER EDUCATION

Enrollment Increases
The amount of $34.5 million from the state general fund is provided to address increasing enrollment demand primarily in high demand fields for which there is a shortage of qualified graduates. Targeted enrollment increases will also go to assist qualified residents seeking to transfer to public baccalaureate institutions and for unemployed workers seeking new job skills.

College access is specifically expanded to support an additional 1,296 full-time equivalent (FTE) student enrollments: 500 enrollments in a high demand pool to be allocated by the Higher Education Coordinating Board to the baccalaureate institutions; 400 enrollments in a transfer student pool to be allocated to the baccalaureate institutions by the Office of Financial Management; 196 enrollments restored to Central Washington University's budgeted enrollment base; 32 resident enrollments in veterinary medicine at Washington State University to replace Oregon students; and 168 enrollments at Clark and Lower Columbia Community Colleges to prepare students for direct transfer into a new Engineering and Science Institute at the Vancouver branch campus of Washington State University.

The State Board for Community and Technical Colleges received $12.6 million in response to enrollment pressures and will provide information to the Legislature by 2004 on the level of high demand and worker retraining state FTEs beings serviced by the two-year colleges with the pooled funds made available.

Job Skills
The Job Skills Program, administered by the State Board for Community and Technical Colleges, is expanded by $1.8 million. Job Skills provides grants for customized job training for workers of existing companies or firms that might expand or locate in the state. Grants are matched in cash or in kind, dollar for dollar, by employers who may opt to partner with an educational service district, a university, college, or career school in Washington.

Financial Aid
A total of $27.9 million from the state general fund is provided for student financial aid through the State Need Grant, Washington Scholars, and Washington Award for Vocational Excellence programs. Current legislative policy is maintained with respect to grants for undergraduate students from families with incomes up to 55 percent of the state's median, and full tuition grants are restored for state merit scholars with this budget.

College and University Operations
A state general fund operating reduction totaling $131 million is made to all public higher education institutions. This reduction may be partially offset by higher tuition collected from enrolled students. Higher education institutions are given the management flexibility to determine how to best implement this reduction.

Compensation
The Legislature provided $10 million from the state general fund for competitive salary adjustments by four-year institutions to recruit and retain key faculty and professional staff. Institutions may supplement this salary pool with tuition funds at their own discretion. Additionally, $2.5 million from the state general fund is provided to the State Board for Community and Technical Colleges to address salary equity for part-time faculty, as well as $2.5 million from the state general fund for incremental salary adjustments for full-time faculty. Salary turnover savings may also be used for increments.

Tuition
Governing boards of each institution and the State Board for Community and Technical Colleges will decide the maximum level of tuition for all students, except resident undergraduates, for the next six academic years. This authority is delegated under Chapter 232, Laws of 2003 (ESSB 5448), and leaves the decision on resident undergraduate rates to the state operating budget. For the 2003-04 and 2004-05 academic years, the Legislature has granted institutions the authority to increase tuition up to 7 percent each year over rates charged to resident undergraduate students at that institution during the prior academic year.

The authority for public colleges and universities to grant tuition waivers is lowered by $5.6 million for the second academic year of the 2003-05 biennium. This instructional support either will be replaced with tuition collected from enrolled students, or local funds at the discretion of each institution.

Facility Stewardship
Responding to findings and recommendations of the Joint Legislative Audit and Review Committee, the Legislature sharpened its focus on building preservation needs for higher education for the 2003-05 biennium. State general funds totaling $11.4 million are provided for plant operations and maintenance to protect and prolong the life of public facilities; another $14.5 million increase to the base is provided for this same purpose at maintenance level.

With this budget, $52.7 million of general fund support for routine maintenance and preventive inspections, mechanical adjustments, and minor work to replace or repair building systems, surfaces, or materials is shifted to the capital budget. Operating appropriations are replaced with non-bond capital funds to sustain levels of investment necessary to keep the current inventory of buildings in "superior" to "good" working condition, until the state chooses to modernize, renovate, or replace them. Through this action, approximately 85 percent of building systems annual expenses once assigned to the state general fund will be newly met with state capital funds.

OTHER EDUCATION

Appropriations for the 2003-05 biennium for the state's other education agencies, provide carryforward funding for the statutory and constitutional duties of these agencies. In order to attain administrative efficiencies, agency budgets are reduced for FTE staff years, salaries, benefits, and other operating costs commensurate with other state agencies.

SPECIAL APPROPRIATIONS

Extraordinary Criminal Justice
The costs of investigating and prosecuting the “Green River murders” accounted for more than half the costs of King County’s 18 aggravated murder cases in 2002. As a result, the Legislature appropriated $766,000 to King County to assist in defraying extraordinary criminal justice costs incurred in the adjudication of aggravated murder cases.

Legislative Liaisons
The Legislature prohibits state agencies and institutions from spending any funds appropriated in the operating budget to employ legislative liaisons or contract for legislative liaisons. Independently elected statewide officials are permitted to employ one legislative liaison during the biennium. The Legislature directs the Office of Financial Management (OFM) to reduce allotments for agencies by $3.257 million from general fund appropriations to reflect the savings. *The Governor vetoed this item.*

Travel, Equipment, and Contracts
In the operating budget, the Legislature directs OFM to reduce allotments for all agencies for equipment, travel, and management and organization personal services contracts by $20 million from general fund appropriations. *The Governor vetoed this item.*

Backfill for Cities and Counties
In the operating budget, the Legislature continues to replace a portion of the Motor Vehicle Excise Tax (MVET) funding for local governments and local public health districts eliminated as a result of the passage of Initiative 695 in 1999. Local public health districts are appropriated $24 million per year from the Health Services Account. Cities and counties are each appropriated $5 million of federal funds in fiscal year 2004.

Expand Junior-Level Transfer Student Enrollment
The operating budget appropriates $6.3 million to be allocated to public baccalaureate institutions to expand state-supported college access by 400 full-time equivalent student enrollments. With this funding, the Legislature intends to assist qualified residents seeking to transfer with an associate degree or credits sufficient to enter degree programs with junior-class standing.

Health Benefits
A total of $127 million ($85 million General Fund-State) is provided to cover the increased cost of medical, dental, life, and disability insurance benefits provided to state agency and higher education employees and retirees.

The budget anticipates that the total cost of medical insurance purchased on behalf of current employees will increase by an average of 15.5 percent per year next biennium. The state's cost for that increase is partially offset by requiring employees to pay an average of 16 percent of the cost of their medical insurance, compared to an average of 14 percent now, and increasing the co-payments for medical office visits to $15, from $10 now. Dental insurance and basic levels of life and disability insurance will continue to be provided at no cost to the employee. With the increases in state funding, the average monthly employee contribution is expected to increase from $72.38 in calendar year 2003 to $96.43 in calendar year 2004 and $110.58 in calendar year 2005.

The cost of supplemental medical insurance for retirees enrolled in Medicare is expected to increase by approximately 13.9 percent per year. The monthly retiree subsidy is increased so that, on average, the state will continue to cover approximately 44 percent of the cost of supplemental insurance for Medicare-eligible retirees.

Pension Funding Method Change
A savings of $87.7 million General Fund-State is achieved by adopting a new actuarial method for smoothing returns on assets for the Public Employees' Retirement System (PERS), the School Employees' Retirement System (SERS), and the Teachers' Retirement System (TRS). The method varies the length of smoothing of a particular year's gain or loss depending on the difference from the actuarially assumed rate of investment return. In addition, no contributions are made towards the unfunded liabilities in PERS and TRS Plan 1 during the biennium.

Washington State Omnibus Operating Budget

2001-03 Expenditure Authority

TOTAL STATE

(Dollars in Thousands)

	General Fund-State			Total All Funds		
	2001-03	2003 Supp	Rev 2001-03	2001-03	2003 Supp	Rev 2001-03
Legislative	129,818	0	129,818	136,110	0	136,110
Judicial	73,294	2,212	75,506	140,864	2,217	143,081
Governmental Operations	383,769	-1,362	382,407	2,649,413	36,128	2,685,541
Other Human Services	1,234,610	19,787	1,254,397	3,538,947	-47,648	3,491,299
DSHS	6,126,587	90,898	6,217,485	15,437,738	-570,616	14,867,122
Natural Resources	315,637	17,738	333,375	1,102,464	28,068	1,130,532
Transportation	40,166	388	40,554	105,690	1,813	107,503
Total Education	12,640,369	36,554	12,676,923	18,054,276	100,679	18,154,955
Public Schools	9,854,332	36,765	9,891,097	11,503,685	100,890	11,604,575
Higher Education	2,731,564	-29	2,731,535	6,439,607	-29	6,439,578
Other Education	54,473	-182	54,291	110,984	-182	110,802
Special Appropriations	1,506,841	-35,318	1,471,523	1,879,268	-44,900	1,834,368
Total Budget Bill	**22,451,091**	**130,897**	**22,581,988**	**43,044,770**	**-494,259**	**42,550,511**
Appropriations in Other Legislation	100	0	100	25,100	0	25,100
Statewide Total	**22,451,191**	**130,897**	**22,582,088**	**43,069,870**	**-494,259**	**42,575,611**

Note: Includes all operating appropriations from both the Omnibus and Transportation Budgets enacted through the 2003 legislative session.

Washington State Omnibus Operating Budget

2001-03 Expenditure Authority

LEGISLATIVE AND JUDICIAL

(Dollars in Thousands)

	General Fund-State			Total All Funds		
	2001-03	2003 Supp	Rev 2001-03	2001-03	2003 Supp	Rev 2001-03
House of Representatives	55,385	0	55,385	55,430	0	55,430
Senate	45,662	0	45,662	45,707	0	45,707
Jt Leg Audit & Review Committee	4,069	0	4,069	4,069	0	4,069
LEAP Committee	2,747	0	2,747	2,950	0	2,950
Office of the State Actuary	0	0	0	2,054	0	2,054
Joint Legislative Systems Comm	13,253	0	13,253	14,959	0	14,959
Statute Law Committee	7,826	0	7,826	10,065	0	10,065
Redistricting Commission	876	0	876	876	0	876
Total Legislative	**129,818**	**0**	**129,818**	**136,110**	**0**	**136,110**
Supreme Court	10,987	0	10,987	10,987	0	10,987
State Law Library	3,906	0	3,906	3,906	0	3,906
Court of Appeals	25,618	0	25,618	25,618	0	25,618
Commission on Judicial Conduct	1,895	0	1,895	1,895	0	1,895
Office of Administrator for Courts	30,288	2,042	32,330	85,514	2,042	87,556
Office of Public Defense	600	170	770	12,944	175	13,119
Total Judicial	**73,294**	**2,212**	**75,506**	**140,864**	**2,217**	**143,081**
Total Legislative/Judicial	**203,112**	**2,212**	**205,324**	**276,974**	**2,217**	**279,191**

Washington State Omnibus Operating Budget

2001-03 Expenditure Authority

GOVERNMENTAL OPERATIONS

(Dollars in Thousands)

	General Fund-State			Total All Funds		
	2001-03	2003 Supp	Rev 2001-03	2001-03	2003 Supp	Rev 2001-03
Office of the Governor	8,525	-58	8,467	12,652	-84	12,568
Office of the Lieutenant Governor	877	0	877	877	0	877
Public Disclosure Commission	3,756	0	3,756	3,756	0	3,756
Office of the Secretary of State	16,931	0	16,931	35,548	0	35,548
Governor's Office of Indian Affairs	543	5	548	543	5	548
Asian-Pacific-American Affrs	434	-17	417	434	-17	417
Office of the State Treasurer	0	0	0	12,870	0	12,870
Office of the State Auditor	1,952	0	1,952	43,984	0	43,984
Comm Salaries for Elected Officials	227	0	227	227	0	227
Office of the Attorney General	8,881	3	8,884	164,973	3	164,976
Caseload Forecast Council	1,231	0	1,231	1,231	0	1,231
Dept of Financial Institutions	0	0	0	24,392	0	24,392
Dept Community, Trade, Econ Dev	131,092	-476	130,616	354,566	28,147	382,713
Economic & Revenue Forecast Cncl	1,011	0	1,011	1,011	0	1,011
Office of Financial Management	24,964	-20	24,944	70,952	11,980	82,932
Office of Administrative Hearings	0	0	0	22,444	1,079	23,523
Department of Personnel	0	0	0	32,886	0	32,886
State Lottery Commission	0	0	0	812,320	0	812,320
Washington State Gambling Comm	0	0	0	29,353	0	29,353
WA State Comm on Hispanic Affairs	436	5	441	436	5	441
African-American Affairs Comm	418	5	423	418	5	423
Personnel Appeals Board	0	0	0	1,705	0	1,705
Department of Retirement Systems	0	0	0	53,244	0	53,244
State Investment Board	0	0	0	13,461	0	13,461
Department of Revenue	150,768	-830	149,938	161,068	-830	160,238
Board of Tax Appeals	2,200	0	2,200	2,200	0	2,200
Municipal Research Council	0	0	0	4,575	0	4,575
Minority & Women's Business Enterp	0	0	0	2,616	0	2,616
Dept of General Administration	1,204	-9	1,195	129,658	-9	129,649
Department of Information Services	0	0	0	207,397	0	207,397
Office of Insurance Commissioner	0	0	0	30,550	0	30,550
State Board of Accountancy	0	0	0	1,716	0	1,716
Forensic Investigations Council	0	0	0	276	0	276
Washington Horse Racing Commission	0	0	0	4,436	0	4,436
WA State Liquor Control Board	2,922	0	2,922	155,626	480	156,106
Utilities and Transportation Comm	0	0	0	30,829	0	30,829
Board for Volunteer Firefighters	0	0	0	569	0	569
Military Department	17,875	30	17,905	148,358	-4,636	143,722
Public Employment Relations Comm	4,564	0	4,564	4,564	0	4,564
Growth Management Hearings Board	2,958	0	2,958	2,958	0	2,958
State Convention and Trade Center	0	0	0	67,734	0	67,734
Total Governmental Operations	**383,769**	**-1,362**	**382,407**	**2,649,413**	**36,128**	**2,685,541**

Washington State Omnibus Operating Budget

2001-03 Expenditure Authority

HUMAN SERVICES

(Dollars in Thousands)

	General Fund-State			Total All Funds		
	2001-03	2003 Supp	Rev 2001-03	2001-03	2003 Supp	Rev 2001-03
WA State Health Care Authority	6,655	0	6,655	722,545	-58,132	664,413
Human Rights Commission	5,307	-136	5,171	6,951	114	7,065
Bd of Industrial Insurance Appeals	0	0	0	29,619	0	29,619
Criminal Justice Training Comm	0	0	0	18,756	0	18,756
Department of Labor and Industries	11,094	0	11,094	463,701	-6,173	457,528
Indeterminate Sentence Review Board	1,968	0	1,968	1,968	0	1,968
Home Care Quality Authority	152	19	171	152	19	171
Department of Health	112,277	-95	112,182	653,217	-3,734	649,483
Department of Veterans' Affairs	19,590	554	20,144	71,918	226	72,144
Department of Corrections	1,072,559	19,451	1,092,010	1,110,323	20,245	1,130,568
Dept of Services for the Blind	3,240	-6	3,234	17,756	537	18,293
Sentencing Guidelines Commission	1,768	0	1,768	1,768	0	1,768
Department of Employment Security	0	0	0	440,273	-750	439,523
Total Other Human Services	**1,234,610**	**19,787**	**1,254,397**	**3,538,947**	**-47,648**	**3,491,299**

Washington State Omnibus Operating Budget

2001-03 Expenditure Authority

DEPARTMENT OF SOCIAL & HEALTH SERVICES

(Dollars in Thousands)

	General Fund-State			Total All Funds		
	2001-03	2003 Supp	Rev 2001-03	2001-03	2003 Supp	Rev 2001-03
Children and Family Services	456,146	0	456,146	832,552	6,733	839,285
Juvenile Rehabilitation	162,258	-826	161,432	230,853	-984	229,869
Mental Health	583,737	11,546	595,283	1,147,254	9,761	1,157,015
Developmental Disabilities	629,106	-1,659	627,447	1,207,851	-4,282	1,203,569
Long-Term Care	1,019,137	522	1,019,659	2,088,762	314	2,089,076
Economic Services Administration	837,958	11,998	849,956	2,231,343	16,314	2,247,657
Alcohol & Substance Abuse	72,873	-474	72,399	230,878	-484	230,394
Medical Assistance Payments	2,205,908	67,406	2,273,314	7,151,576	-601,345	6,550,231
Vocational Rehabilitation	20,520	-14	20,506	103,115	-64	103,051
Administration/Support Svcs	52,838	2,399	55,237	100,783	3,421	104,204
Payments to Other Agencies	86,106	0	86,106	112,771	0	112,771
Total DSHS	**6,126,587**	**90,898**	**6,217,485**	**15,437,738**	**-570,616**	**14,867,122**
Total Human Services	**7,361,197**	**110,685**	**7,471,882**	**18,976,685**	**-618,264**	**18,358,421**

Washington State Omnibus Operating Budget

2001-03 Expenditure Authority

NATURAL RESOURCES

(Dollars in Thousands)

	General Fund-State			Total All Funds		
	2001-03	2003 Supp	Rev 2001-03	2001-03	2003 Supp	Rev 2001-03
Columbia River Gorge Commission	777	0	777	1,526	0	1,526
Department of Ecology	73,687	-58	73,629	320,271	-39	320,232
WA Pollution Liab Insurance Program	0	0	0	2,150	0	2,150
State Parks and Recreation Comm	62,538	-8	62,530	99,285	532	99,817
Interagency Comm for Outdoor Rec	323	0	323	14,270	0	14,270
Environmental Hearings Office	1,668	0	1,668	1,668	0	1,668
State Conservation Commission	4,272	0	4,272	7,770	0	7,770
Dept of Fish and Wildlife	90,709	-6	90,703	287,586	444	288,030
Department of Natural Resources	66,414	17,867	84,281	276,766	27,396	304,162
Department of Agriculture	15,249	-57	15,192	91,172	-265	90,907
Total Natural Resources	**315,637**	**17,738**	**333,375**	**1,102,464**	**28,068**	**1,130,532**

Washington State Omnibus Operating Budget

2001-03 Expenditure Authority

TRANSPORTATION

(Dollars in Thousands)

	General Fund-State			Total All Funds		
	2001-03	2003 Supp	Rev 2001-03	2001-03	2003 Supp	Rev 2001-03
Washington State Patrol	29,500	338	29,838	71,397	1,669	73,066
Department of Licensing	10,666	50	10,716	34,293	144	34,437
Total Transportation	**40,166**	**388**	**40,554**	**105,690**	**1,813**	**107,503**

Washington State Omnibus Operating Budget

2001-03 Expenditure Authority

EDUCATION

(Dollars in Thousands)

	General Fund-State			Total All Funds		
	2001-03	2003 Supp	Rev 2001-03	2001-03	2003 Supp	Rev 2001-03
OSPI & Statewide Programs	51,480	0	51,480	192,176	17,195	209,371
General Apportionment	7,498,021	16,692	7,514,713	7,498,021	16,692	7,514,713
Pupil Transportation	385,695	18,726	404,421	385,695	18,726	404,421
School Food Services	6,200	0	6,200	296,387	10,805	307,192
Special Education	828,926	1,502	830,428	1,085,333	40,110	1,125,443
Traffic Safety Education	4,277	1	4,278	4,277	1	4,278
Educational Service Districts	9,328	0	9,328	9,328	0	9,328
Levy Equalization	295,863	857	296,720	295,863	857	296,720
Elementary/Secondary School Improv	0	0	0	201,737	-2,077	199,660
Institutional Education	37,731	-814	36,917	46,279	-814	45,465
Ed of Highly Capable Students	12,699	17	12,716	12,699	17	12,716
Student Achievement Program	0	0	0	391,149	64	391,213
Education Reform	67,030	119	67,149	128,101	119	128,220
Transitional Bilingual Instruction	87,501	-592	86,909	107,781	-1,117	106,664
Learning Assistance Program (LAP)	135,956	-633	135,323	266,587	-633	265,954
Block Grants	23,204	-9	23,195	23,204	-9	23,195
State Flexible Education Funds	20,612	0	20,612	20,612	0	20,612
Better Schools Program	8,996	0	8,996	8,996	0	8,996
Compensation Adjustments	380,813	899	381,712	381,004	954	381,958
Common School Construction	0	0	0	148,456	0	148,456
Total Public Schools	**9,854,332**	**36,765**	**9,891,097**	**11,503,685**	**100,890**	**11,604,575**

Washington State Omnibus Operating Budget

2001-03 Expenditure Authority

PUBLIC SCHOOLS

(Dollars in Thousands)

	General Fund-State			Total All Funds		
	2001-03	2003 Supp	Rev 2001-03	2001-03	2003 Supp	Rev 2001-03
Higher Education Coordinating Board	264,158	-29	264,129	279,943	-29	279,914
University of Washington	679,674	0	679,674	2,925,540	0	2,925,540
Washington State University	395,169	0	395,169	817,324	0	817,324
Eastern Washington University	89,241	0	89,241	162,729	0	162,729
Central Washington University	85,572	0	85,572	175,149	0	175,149
The Evergreen State College	49,513	0	49,513	88,824	0	88,824
Spokane Intercoll Rsch & Tech Inst	2,896	0	2,896	4,223	0	4,223
Western Washington University	117,700	0	117,700	235,470	0	235,470
Community/Technical College System	1,047,641	0	1,047,641	1,750,405	0	1,750,405
Total Higher Education	**2,731,564**	**-29**	**2,731,535**	**6,439,607**	**-29**	**6,439,578**
State School for the Blind	9,174	0	9,174	10,428	0	10,428
State School for the Deaf	15,146	-53	15,093	15,378	-53	15,325
Work Force Trng & Educ Coord Board	3,395	-4	3,391	48,881	-4	48,877
State Library	12,000	0	12,000	18,976	0	18,976
Washington State Arts Commission	5,661	0	5,661	6,664	0	6,664
Washington State Historical Society	5,934	-83	5,851	7,494	-83	7,411
East Wash State Historical Society	3,163	-42	3,121	3,163	-42	3,121
Total Other Education	**54,473**	**-182**	**54,291**	**110,984**	**-182**	**110,802**
Total Education	**12,640,369**	**36,554**	**12,676,923**	**18,054,276**	**100,679**	**18,154,955**

Washington State Omnibus Operating Budget

2001-03 Expenditure Authority

SPECIAL APPROPRIATIONS

(Dollars in Thousands)

	General Fund-State			Total All Funds		
	2001-03	2003 Supp	Rev 2001-03	2001-03	2003 Supp	Rev 2001-03
Bond Retirement and Interest	1,251,110	-40,040	1,211,070	1,432,580	-49,638	1,382,942
Special Approps to the Governor	107,369	4,000	111,369	204,773	4,000	208,773
Sundry Claims	274	490	764	279	506	785
State Employee Compensation Adjust	103,943	0	103,943	197,491	0	197,491
Contributions to Retirement Systems	44,145	232	44,377	44,145	232	44,377
Total Budget Bill	**1,506,841**	**-35,318**	**1,471,523**	**1,879,268**	**-44,900**	**1,834,368**
Appropriations in Other Legislation	100	0	100	25,100	0	25,100
Total Special Appropriations	**1,506,941**	**-35,318**	**1,471,623**	**1,904,368**	**-44,900**	**1,859,468**

2003-05 Capital Budget Overview

In developing the 2003-05 capital budget, the 2003 Legislature was faced with a choice to either build a budget within the current statutory debt limit or to expand that limit to meet additional capital needs of the state. Because of weak revenue growth, the statutory debt limit would have allowed for a relatively small capital budget (compared to prior biennia). In addition, former governors Booth Gardner and Dan Evans proposed a large increase in borrowing for higher education capital spending along with a proposal to increase the debt limit.

The Legislature responded to this situation by passing four major capital budget-related bills: the capital budget itself, Chapter 26, Laws of 2003, 1st sp.s., (SSB 5401); a typical "bond bill", Chapter 3, Laws of 2003, 1st sp.s., (ESHB 1288); a special higher education bond bill, Chapter 18, Laws of 2003, 1st sp.s., (ESSB 5908); and finally, a bill to amend the statutory debt limit, Chapter 9, Laws of 2003, 1st sp.s, (HB 2242).

Appropriations in the capital budget totaled $2.6 billion, $1.3 billion from a variety of revenue sources and $1.3 billion from the issuance of state bonds. Additionally, $1.8 billion was reappropriated for projects from prior biennia. The $1.3 billion of spending from non-bond sources includes $284 million for K-12 construction and $261 million for public works assistance.

Bond Bills
The regular bond bill (ESHB 1288) authorized issuance of $1.2 billion in general obligation bonds to be repaid over 25 years by the state general fund. The "Gardner/Evans" bond bill (ESSB 5908) authorized an additional $750 million of general obligation bonds over a period of about six years. Only $170 million of this amount was appropriated in this budget, leaving $580 million to be appropriated for higher education projects in future capital budgets.

Debt Limit Issues
The state has both a 7 percent statutory and a 9 percent constitutional debt limit. The size of any capital budget is generally restricted by the statutory 7 percent debt limit. However, because of numerous amendments and exceptions to the statutory limit in recent years, there is now a smaller difference than might first appear. During the 2003 session, the Legislature passed a new amendment to the statutory debt limit that adds the state property tax into the definition of general state revenues. This effectively now makes the 7 percent and 9 percent limits equivalent. By increasing the statutory debt limit, the Legislature was able to appropriate an additional $350 million in the 2003-05 capital budget. An unofficial "working limit" of 8.5 percent was established to avoid the possibility of exceeding the constitutional limit should interest rate or revenue projections turn out to be incorrect and to leave room to address emergencies or unforeseen circumstances.

Higher Education
Higher Education was provided a total of $759 million, of which $581 million was state bonds. As mentioned above, $170 million in Gardner-Evans bonds are appropriated for a variety of new facilities and preservation/ renovation of existing facilities. The Legislature chose to place a special emphasis on preserving existing buildings on the various college campuses. For this reason, two new categories of spending were created: *Preventive Maintenance* (Preventive Facility Maintenance & Building System Repairs) and *Backlog Reduction* (Facility Preservation Backlog Reduction).

The $52 million for *Preventive Maintenance* is intended to maintain state-owned university facilities housing educational and general programs of the institution for current occupants and extend the useful life of the buildings. Institutions are to proactively address day-to-day needs of campus facilities, giving attention to those buildings in better relative condition or used intensely so as to mitigate future years' demand on the state for significant capital investments. *Preventive Maintenance* funds are not intended to fund utilities, security, janitorial services, or grounds

keeping. This item replaces a general fund reduction in the 2003-05 Operating Budget base that historically has been used for these purposes.

Facility Preservation Backlog Reduction funding is provided to undertake a locally-prioritized list of deferred facility preservation projects that principally focuses on building systems and structural and code-related deficiencies, to improve the condition of state-owned university facilities functioning poorly for housing current programs and occupants.

Public School Construction
The sum of $397.8 million was appropriated as matching funds to construct and renovate buildings for the state public school system. This amount includes $32.8 million to increase the per square foot area cost allowance to $125.32 in FY 2004 and $129.80 in FY 2005, compared to $110.32 currently.

The Common School Construction Fund receives revenue from a variety of sources. The following revenue streams are expected to be deposited into the fund to support the 2003-05 appropriation: $96.4 million from timber trust revenues; $44 million of state bonds is provided through the Trust Land Transfer Program; $27 million from Education Savings Account transfers that are derived from state agency under-expenditures; $21.2 million from interest earnings, federal funds and other transfers; and $67.4 million from the Education Construction Account.

In addition, a total of $2 million in state bonds was appropriated to complete the construction of the Port Angeles North Olympic Skills Center. A total of $4.8 million is provided from state bonds for grants to school districts for security upgrades and the implementation of school mapping technologies in the Criminal Justice Training Commissions' budget. Also, $1.5 million is provided for a sustainable building practices pilot project.

Human Services
A total of $252 million was appropriated to the various Human Services agencies. Funding is provided for expansions and remodels of institutions at the Department of Corrections in response to an increased inmate population and the need for additional maximum-security beds. The sum of $133.9 million is provided for a new North Security Complex at the Washington State Penitentiary (WSP) in Walla Walla that will provide 768 close custody beds and 100 intensive management unit beds. In addition, $17.8 million is provided to remodel 324 medium custody beds at the WSP to close custody, and $18.7 million is provided for a new 100-bed intensive management unit at the Monroe Correctional Complex. Also, $500,000 is provided for a comprehensive master plan of the entire correctional system. The Department of Social and Health Services is provided $44 million to improve facilities for juvenile rehabilitation, mental health facilities, the Special Commitment Center, and other facilities. The sum of $6.2 million is provided for the consolidation of Residential Habilitation Centers and the downsizing of Fircrest School. To improve security and address suicide risks, $5.5 million is provided for the first phase of renovation of cottages at Echo Glen Children's Center.

Salmon Recovery and Water
The Legislature continued efforts to restore salmon populations to healthy, harvestable levels by investing in salmon recovery programs, water quality, and water quantity programs and projects. The capital budget provides $255 million for salmon and water programs.

Funding for salmon recovery includes: $46 million for grants for salmon restoration projects and activities; $23.9 million for hatchery management and reform; $1 million for fish screens; and $5 million to purchase riparian easements from timber land owners to mitigate the economic impact of forest practices rules and to remove fish blockages on family-owned forests.

Capital funding for water resources and water quality includes: $14.6 million for water supply facilities and grants for irrigation efficiencies; $3 million to purchase and lease water rights; $49.5 million for water quality grants through the State Conservation Commission and the Centennial Clean Water Fund; and $111 million for low-interest loans to local governments for water pollution control facilities.

Habitat and Recreation

Over $144 million is provided to improve public access to recreation and preserve open space and habitat. Through the Washington Wildlife and Recreation Program, $45 million is provided for habitat and recreation projects. With the Trust Land Transfer Program, $55 million is provided to purchase unharvestable timber lands from the school trust and transfer those lands to recreation and habitat status. Through the Aquatic Lands Enhancement Grant Program, $5.4 million of revenues from state tidelands and bedlands is provided for water access and habitat protection projects. Through the Forest Legacy Program and the Land and Water Conservation Fund, $11.7 million in federal funds is provided to acquire and protect high quality habitat. Recreation on non-highway roads and trails is supported by $6.2 million in Non-Highway and Off-Road Vehicle Program Account funding. The State Parks and Recreation Commission is provided $21 million in state, federal, and local authority to preserve and improve the state park system.

Projects Funded By Alternative Financing Contracts

In addition to regular appropriations for capital projects, the budget authorizes state agencies to enter into financing contracts for the acquisition of land and facilities. There are 13 such projects.

Relationship Between the Capital and Operating Budgets

Given the current economic climate, the Legislature heightened its review of potential future operating budget impacts of capital projects and the impacts that policy and operating budget decisions have on future capital spending requests. State agencies are required to identify likely future operating budget impacts of capital projects. These operating costs include staffing, equipment, and maintenance. The estimates of these impacts provide the basis for predicting what future operating budget requests will be and whether the operating budget can support the capital project in the future. However, there is a significant variance in the quality of these estimates. Some agencies, particularly some natural resource agencies, have improved the forecasting of these operating impacts, and efforts are underway to better coordinate operating and capital costs in higher education and for other agencies. While not necessarily agreeing on the agencies' estimates of future operating impacts, the Legislature acknowledges the agencies' identification of potential costs to operate the facility or project and will continue its efforts to better coordinate these budget impacts in project and budget decisions.

2003-05 Capital Budget

New Appropriations Project List

Chapter 26, Laws of 2003, 1st sp.s., Partial Veto (SSB 5401)

	State Bonds	Total	
NEW PROJECTS			
Governmental Operations			
Jt Leg Audit & Review Committee			
Capital Budget Studies	500,000	500,000	
Public Disclosure Commission			
Infrastructure Security/Disaster Recovery Systems	270,172	270,172	
Office of the Secretary of State			
Deferred Maintenance Reduction Backlog Projects: Regional Archive	100,000	100,000	
Office of the State Auditor			
Moving and Equipment Costs	0	100,000	v
Dept Community, Trade, Econ Dev			
Bellevue Open Space Enhancement	750,000	750,000	
Bremerton Waterfront Project	1,000,000	1,000,000	
Building for the Arts	4,500,000	4,500,000	
Cancer Research Facility Grant	1,000,000	1,000,000	
Chewelah Peak Environmental Learning Center	1,500,000	1,500,000	
City of Woodland Infrastructure Development	300,000	300,000	
Coastal Erosion Grants	750,000	750,000	
Community Economic Revitalization Board (CERB)	0	11,491,000	
Community Services Facilities Program	5,931,280	5,931,280	
Drinking Water Assistance Account	4,000,000	12,500,000	
Drinking Water-State Revolving Fund-Auth to Use Loan Repayments	0	11,200,000	
Fox Theater Project	1,500,000	1,500,000	
Greenbank Farm	1,500,000	1,500,000	
Highline School District Aircraft Noise Mitigation	10,000,000	10,000,000	
Housing Assistance, Weatherization, and Affordable Housing	80,000,000	80,000,000	
Japanese American Memorial	1,500,000	1,500,000	
Lewis and Clark Confluence Project	3,000,000	3,000,000	
Local/Community Projects	12,197,500	12,197,500	
McCaw Opera House	1,500,000	1,500,000	
PBS Digital Upgrade	700,000	700,000	
Pine Lake Park Phase II	600,000	600,000	
Public Works Trust Fund	0	261,200,000	
Rural Washington Loan Fund (RWLF)	0	3,481,000	
Seattle Heart Alliance (at Swedish Hospital)	4,000,000	4,000,000	
Seventh Street Theatre	100,000	100,000	
State Games	200,000	200,000	
West Central Community Center	500,000	500,000	
William Factory Business Incubator	560,000	560,000	
Wing Luke Asian Art Museum	1,500,000	1,500,000	
Yakima Ballfields	350,000	350,000	
Total	139,438,780	435,310,780	

pv = Partial Veto; v = Veto

2003-05 Capital Budget

New Appropriations Project List

Chapter 26, Laws of 2003, 1st sp.s., Partial Veto (SSB 5401)

	State Bonds	Total	
Office of Financial Management			
Capital Monitoring	150,000	150,000	
Dept of General Administration			
Cherberg Building Predesign	0	600,000	
Emergency Repairs	300,000	1,600,000	
Engineering & Architectural Services	6,009,000	9,586,000	
Heritage Park	0	500,000	v
Historic Buildings - Exteriors Preservation	1,475,000	1,475,000	
Legislative Building Security	0	1,179,000	
Legislative Building Space Use Change	1,570,000	1,570,000	
Legislative Building: Rehabilitation and Capital Addition	0	2,300,000	
Minor Works - Facility Preservation: Statewide	0	5,545,000	
Minor Works - Infrastructure Preservation: Capitol Campus	0	2,100,000	
State Capitol Master Plan Update	0	200,000	
Total	9,354,000	26,655,000	
Military Department			
Communication Security-Emergency Management Division-Bldg No. 20	0	1,000,000	
Energy Management Control Systems	365,000	365,000	
Infrastructure Savings	1	1	
Minor Works - Preservation	1,113,000	1,113,000	
Minor Works to Support Federal Construction Projects	2,798,000	13,948,000	
Orting School District Safety Bridge Study	250,000	250,000	
Spokane Readiness Center	4,768,000	13,568,000	
Total	9,294,001	30,244,001	
State Convention and Trade Center			
WSCTC Omnibus Minor Works	0	2,045,000	
Total Governmental Operations	**159,106,953**	**495,374,953**	

Human Services

	State Bonds	Total
Criminal Justice Training Comm		
School Mapping & Security	4,800,000	4,800,000
Dept of Social and Health Services		
Child Study & Treatment Center-Cottages: Modifications, Phase 3	1,800,000	1,800,000
DSHS: Capital Project Management	0	2,000,000
Echo Glen Children's Center-Eleven Cottages: Renovation	5,490,000	5,490,000
Echo Glen Children's Center-Site: Infrastructure Improvements	0	925,000
Infrastructure Savings	1	1
JRA Master Planning Updates	200,000	200,000
Juvenile Rehabilitation-Acute Mental Health Unit: New Facility	200,000	200,000
Maple Lane School-Steam Plant and Tunnels: Upgrade	2,650,000	2,650,000
Minor Works - Facility Preservation	4,000,000	4,000,000
Minor Works - Health, Safety and Code Requirements	1,500,000	1,500,000
Minor Works - Infrastructure Preservation	1,500,000	1,500,000
Minor Works - Program: Mental Health	750,000	750,000
Rainier School: Wastewater Treatment (Buckley)	0	250,000
Residential Habilitation Centers Consolidation	2,000,000	6,000,000

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2003-05 Capital Budget

New Appropriations Project List

Chapter 26, Laws of 2003, 1st sp.s., Partial Veto (SSB 5401)

	State Bonds	Total	
Dept of Social and Health Services (continued)			
Special Commitment Center-Regional SCTF: New 12-Bed Facility	3,000,000	3,000,000	
Special Commitment Center-Secure Facility: Construction, Phase 3	11,158,212	11,158,212	
Statewide - Emergency Repairs	750,000	750,000	
Statewide - Hazards Abatement and Demolition	250,000	250,000	
Statewide: Facilities Condition Assessment & Preservation Plan	0	100,000	
Western State Hospital: Legal Offender Unit	1,000,000	1,000,000	
Total	36,248,213	43,523,213	
Department of Health			
Drinking Water Assistance Program	0	28,122,000	
Department of Veterans' Affairs			
Emergency Repairs	0	300,000	
Historic District Management Plan	0	40,000	
Infrastructure Savings	1	1	
Minor Works - Facility Preservation: Orting	750,000	750,000	
Retsil: 240 Bed Nursing Facility	12,000,000	42,980,700	
Total	12,750,001	44,070,701	
Department of Corrections			
Emergency Repairs	0	1,600,000	
Infrastructure Savings	1	1	
Master Planning	500,000	500,000	
MCC: 100-Bed Management & Segregation Unit	18,674,031	18,674,031	
MICC: Replace Submarine Electric Power Cable	4,902,000	4,902,000	
Minor Works - Facility Preservation	4,000,000	4,000,000	
Minor Works - Health, Safety and Code	4,000,000	4,000,000	
Minor Works - Infrastructure Preservation	4,000,000	4,000,000	
WCC: Regional Infrastructure	4,650,000	4,650,000	
WSP: Convert BAR Units from Medium to Close Custody	17,809,202	17,809,202	
WSP: North Close Security Compound	133,940,000	133,940,000	
WSP: Replace Electrical Supply System	4,242,715	4,242,715	
WSP: Replace Sanitary/Domestic Water Lines	1,312,167	1,312,167	
Total	198,030,116	199,630,116	
Total Human Services	**251,828,330**	**320,146,030**	

Natural Resources

	State Bonds	Total	
Department of Ecology			
Centennial Clean Water Program	30,452,000	46,400,000	
Columbia Basin Ground Water Management	0	500,000	
Local Toxics Grants to Locals for Cleanup and Prevention	0	45,000,000	pv
Low-Level Nuclear Waste Disposal Trench Site Investigation	0	1,141,415	
Padilla Bay Expansion	568,804	2,986,000	
Twin Lake Aquifer Recharge Project	750,000	750,000	
Water Irrigation Efficiencies	1,000,000	1,000,000	
Water Pollution Control Program	0	111,129,999	
Water Rights Purchase/Lease	0	3,000,000	
Water Supply Facilities Program	13,650,000	13,650,000	

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2003-05 Capital Budget

New Appropriations Project List

Chapter 26, Laws of 2003, 1st sp.s., Partial Veto (SSB 5401)

	State Bonds	Total
Department of Ecology (continued)		
Total	46,420,804	225,557,414
State Parks and Recreation Comm		
Beacon Rock Pierce Trust	0	50,000
Deception Pass State Park Renovation	250,000	250,000
Emergency Repairs	500,000	500,000
Facility Assessment	0	150,000
Fort Canby Improvements	750,000	750,000
Fort Worden	1,000,000	1,000,000
Historic Stewardship	1,000,000	1,000,000
Iron Horse Trail	262,500	262,500
Lewis & Clark Trail Bicentennial	3,337,000	3,337,000
Major Park Renovation-Cama Beach	0	200,000
Minor Works - Facility Preservation	1,837,500	7,737,500
Park Housing	1,000,000	1,000,000
Parkland Acquisition	0	1,000,000
Recreation Development	2,900,000	2,900,000
Statewide Boat Pumpout - Federal Clean Vessel Act	0	1,000,000
Total	12,837,000	21,137,000
Interagency Comm for Outdoor Rec		
Aquatic Lands Enhancement Grants	0	5,356,400
Boating Facilities Program (BFP)	0	7,506,959
Boating Infrastructure Grant Program (BIG)	0	2,000,000
Family Forest Fish Blockages Program	2,000,000	2,000,000
Firearms and Archery Range Recreation Program (FARR)	0	150,000
Hatchery Management Program	0	10,000,000
Land and Water Conservation Fund (LWCF)	0	5,735,000
National Recreation Trails Program (NRTP)	0	2,260,000
Nonhighway and Off-Road Vehicle Activities Program (NOVA)	0	6,226,310
Salmon Recovery Fund Board Programs (SRFB)	12,000,000	46,375,000
Washington Wildlife and Recreation Program (WWRP)	45,000,000	45,000,000
Total	59,000,000	132,609,669
State Conservation Commission		
Conservation Reserve Enhancement Program	2,000,000	2,000,000
Dairy Nutrient Management Grants Program	0	1,600,000
Puget Sound District Grants	0	840,000
Skykomish Flood Mitigation Project	181,000	181,000
Water Quality Grants Program	3,500,000	3,500,000
Total	5,681,000	8,121,000
Dept of Fish and Wildlife		
Deschutes Hatchery	350,000	350,000
Facility, Infrastructure, Lands, and Access Condition Improvement	3,875,000	4,475,000
Fish & Wildlife Opportunity Improvements	0	2,050,000
Fish and Wildlife Population and Habitat Protection	2,400,000	10,430,000
Fish Screens	1,000,000	1,000,000
Hatchery Reform, Retrofits, and Condition Improvement	7,700,000	13,900,000
Internal and External Partnership Improvements	0	6,500,000
Region 1 Office - Spokane	3,900,000	3,900,000

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2003-05 Capital Budget

New Appropriations Project List

Chapter 26, Laws of 2003, 1st sp.s., Partial Veto (SSB 5401)

	State Bonds	Total	
Dept of Fish and Wildlife (continued)			
WDFW Energy Savings	500,000	500,000	
Wind Power Mitigation	500,000	500,000	v
Youth Sportfishing Program	0	250,000	
Total	20,225,000	43,855,000	
Department of Natural Resources			
Agricultural Asset Preservation	0	100,000	
Commercial Development/Local Improvement Districts	0	100,000	
Communication Site Repairs	0	200,000	
Community and Technical College Trust Land Acquisition	0	96,000	
Digitize Geology Library Collections	900,000	900,000	v
Forest Legacy	0	6,000,000	
Hazardous Waste Removal	0	50,000	
Land Bank	0	5,000,000	
Marine Station Public Access	0	100,000	
Minor Works - Facility Preservation	150,000	813,800	
Minor Works - Health, Safety, & Code	0	394,400	
Mobile Radio System Upgrade	1,659,800	2,273,700	
Natural Area Facilities Preservation	185,000	185,000	
Natural Resource Real Property Replacement	0	20,000,000	
Real Estate Repair, Maintenance, and Tenant Improvements	0	1,200,000	
Recreation Facilities Preservation	225,000	225,000	
Right-of-Way Acquisition	0	500,000	
Riparian Open Space Program	1,000,000	2,500,000	
Small Timber Landowner Program	2,000,000	2,000,000	
Statewide Estuarine Restoration Projects	0	200,000	
Trust Land Transfer Program	55,000,000	66,000,000	
Wetland Grants	0	500,000	
Total	61,119,800	109,337,900	
Department of Agriculture			
Fair Improvements	200,000	200,000	
Total Natural Resources	**205,483,604**	**540,817,983**	

Transportation

	State Bonds	Total
Washington State Patrol		
Minor Works - Facility Preservation: Fire Training Academy	250,000	250,000
Seattle Toxicology Lab	800,000	800,000
Spokane Crime Laboratory Construction	11,365,000	11,365,000
Vancouver Crime Lab - Design / Construction	10,000,000	10,000,000
Total	22,415,000	22,415,000

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2003-05 Capital Budget

New Appropriations Project List

Chapter 26, Laws of 2003, 1st sp.s., Partial Veto (SSB 5401)

	State Bonds	Total
Department of Transportation		
Port of Everett Satellite Barge Facility	0	15,500,000
Total Transportation	22,415,000	37,915,000

Higher Education

	State Bonds	Total
University of Washington		
Facility Preservation Backlog Reduction	28,600,000	28,600,000
Infrastructure Savings	1	1
Minor Works - Program	6,500,000	10,500,000
Preventive Facility Maintenance & Building System Repairs	0	20,108,000
UW Campus Communications Infrastructure	5,000,000	5,000,000
UW Emergency Power Expansion - Phase II	3,500,000	5,948,000
UW Johnson Hall Renovation	37,503,000	53,055,000
Total	81,103,001	123,211,001
Washington State University		
Facility Preservation Backlog Reduction	37,235,000	42,000,000
Infrastructure Savings	1	1
Omnibus Equipment and Program Improvements	0	4,380,000
Preventive Facility Maintenance & Building System Repairs	0	7,876,000
WSU ICN Spokane - Nursing Building at Riverpoint: New Facility	3,000,000	3,000,000
WSU Prosser - Multipurpose Building: New Facility	1,500,000	1,500,000
WSU Pullman - Biotechnology/Life Sciences 1	0	4,500,000
WSU Pullman - Campus Infrastructure	3,000,000	3,000,000
WSU Pullman - Education Addition Cleveland Hall	11,160,000	11,160,000
WSU Pullman - Johnson Hall Addition - Plant Bioscience Bldg	19,542,000	35,200,000
WSU TriCities - Bioproducts & Sciences Building	900,000	900,000
WSU Vancouver - Campus Utilities/Infrastructure: Infrastructure	4,300,000	4,300,000
Total	80,637,001	117,816,001
Eastern Washington University		
EWU Campus Network Upgrade	0	3,875,000
EWU Classroom Renewal	0	691,325
EWU Computing and Engineering Sciences Building (Cheney Hall)	19,000,482	19,000,482
EWU Infrastructure Preservation	1,550,000	1,550,000
EWU Minor Works - Program	0	650,000
EWU Senior Hall Renovation	6,000,000	6,000,000
EWU University Visitor Center and Formal Entry	0	975,000
Facility Preservation Backlog Reduction	4,250,000	4,250,000
Infrastructure Savings	1	1
Minor Works - Health, Safety, and Code	391,325	500,000
Preventive Facility Maintenance & Building System Repairs	0	1,726,000
Total	31,191,808	39,217,808

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2003-05 Capital Budget

New Appropriations Project List

Chapter 26, Laws of 2003, 1st sp.s., Partial Veto (SSB 5401)

	State Bonds	Total
Central Washington University		
Combined Utility Upgrade	5,000,000	5,400,000
CWU/Des Moines Higher Education Center	1,438,000	8,000,000
CWU/Moses Lake Higher Education Center	0	600,000
Facility Preservation Backlog Reduction	4,250,000	4,250,000
Infrastructure Savings	1	1
Minor Works: Program	0	2,000,000
Music Education Facility	12,600,000	12,600,000
Preventive Facility Maintenance & Building System Repairs	0	1,886,000
Total	23,288,001	34,736,001
The Evergreen State College		
Daniel J Evans Building - Modernization	21,500,000	21,500,000
Facility Preservation Backlog Reduction	4,250,000	4,250,000
Infrastructure Preservation	1,550,000	1,550,000
Infrastructure Savings	1	1
Lab II 3rd Floor - Chemistry Labs Remodel	0	3,000,000
Minor Works - Health, Safety, and Code	500,000	2,500,000
Minor Works Program	0	850,000
Preventive Facility Maintenance & Building System Repairs	0	734,000
Seminar Building Phase II - Construction	0	2,500,000
Total	27,800,001	36,884,001
Western Washington University		
Academic Instructional Center	5,618,000	5,618,000
Campus Infrastructure Development	2,160,000	2,160,000
Campus Roadway Development	249,000	329,000
Communications Facility	0	3,920,000
Facility Preservation Backlog Reduction	4,250,000	4,250,000
Infrastructure Savings	1	1
Miller Hall Renovation	250,000	250,000
Minor Works - Health, Safety, and Code	1,000,000	1,000,000
Minor Works - Infrastructure Preservation	1,550,000	1,550,000
Minor Works - Program	500,000	550,000
Planetarium Improvement	125,000	125,000
Preventive Facility Maintenance & Building System Repairs	0	2,814,000
Shannon Point Marine - Undergraduate Center	998,329	4,998,329
Total	16,700,330	27,564,330
Community/Technical College System		
Bates Technical College: LRC/Vocational	1,796,206	1,796,206
Bates-Clover Park Equipment Improvements	0	3,000,000
Bellevue Community College: "D" Building Renovation	11,418,700	13,418,700
Bellevue Community College: NWCET Expansion	0	500,000
Bellevue Community College: Science and Technology	0	90,000
Bellingham Technical College: Welding/Auto Collision Replacement	2,481,000	2,481,000
Cascadia Community College: Center for Arts, Tech, Comm	0	159,900
Centralia Community College Science Building	150,000	150,000
Clark College: Clark Center at WSU Vancouver	18,009,800	18,009,800
Clark College: East County Satellite	300,000	300,000
Clark College: Renovation - Applied Arts 5	3,872,413	3,872,413

2003-05 Capital Budget

New Appropriations Project List

Chapter 26, Laws of 2003, 1st sp.s., Partial Veto (SSB 5401)

	State Bonds	Total
Community/Technical College System (continued)		
Clark College: Stout Hall	4,049,889	4,049,889
Clover Park Technical College: Building 25 Machine Trades	4,583,308	4,583,308
Columbia Basin College: Renovation - "T" Building	6,058,500	6,058,500
Edmonds Community College: Instructional Lab Building	2,939,060	2,939,060
Edmonds Community College: Renovation - Mountlake Terrace Hall	8,827,030	8,827,030
Everett Community College: Pilchuck/Glacier	1,311,700	1,311,700
Everett Community College: Renovation - Monte Cristo Hall	7,352,000	7,352,000
Everett Community College: Undergraduate Education Center	0	126,000
Facility Preservation Backlog Reduction	64,300,000	64,300,000
Grays Harbor College: Replacement-Instructional Building	1,263,300	1,263,300
Green River Community College: Computer Technology Center	10,984,800	10,984,800
Green River Community College: Science Building	0	2,396,409
Highline Community College: Higher Ed Center/Childcare	14,654,000	18,552,000
Infrastructure Savings	1	1
Lake Washington Technical College - Redmond Land Acquisition	0	500,000
Lake Washington Technical College: Renovation - East/West Bldgs	4,420,800	4,420,800
Lower Columbia College: Instructional/Fine Arts Bldg Replacement	1,827,799	1,827,799
Minor Works - Program (Minor Improvements)	0	14,979,217
North Seattle Community College: Arts and Science Renovation	6,785,700	6,785,700
Olympic College: Science and Technology Building Replacement	10,998,000	13,998,000
Peninsula College: Community Resource Center	0	500,000
Peninsula College: Replacement Science and Technology Building	0	82,800
Pierce College Fort Steilacoom - Childcare Center	0	500,000
Pierce College Ft Steilacoom: Science and Technology	0	190,000
Pierce College Puyallup: Community Arts/Allied Health	0	150,000
Pierce College Puyallup: Phase III Expansion	23,374,774	23,374,774
Preventive Facility Maintenance & Building System Repairs	0	17,754,000
Renton Technical College: Portable Replacement	419,300	419,300
Roof Repairs "A"	7,265,677	7,265,677
Seattle Central: Replacement North Plaza Building	4,976,200	4,976,200
Site Repairs "A"	5,305,624	5,305,624
Skagit Valley College: Science Building Replacement	300,000	300,000
South Puget Sound Community College: Humanities/Gen Ed Complex	17,350,248	17,350,248
South Puget Sound Community College: Science Complex	0	93,200
South Seattle Community College: Instructional Technology Center	17,236,600	17,236,600
South Seattle Community College: Renovation-Pastry Vocational Pgm	0	2,613,100
Spokane Community College: Science Building Replacement	15,721,600	15,721,600
Tacoma Community College: Information Technology Voc Center	14,531,900	14,531,900
Tacoma Community College: Renovation - Building 7	4,988,000	4,988,000
Tacoma Community College: Replacement - Portable Buildings	2,622,000	2,622,000
Tacoma Community College: Science Building	2,379,000	2,379,000
Walla Walla Community College: Basic Skills/Computer Lab	573,000	573,000
Walla Walla Community College: Health Science Facility	0	7,261,400
Whatcom Community College: Classroom/Lab Building	10,932,400	10,932,400
Yakima Valley Community College: Renovation - Sundquist Annex	3,852,700	3,852,700
Total	320,213,029	380,007,055

pv = Partial Veto; v = Veto

2003-05 Capital Budget
New Appropriations Project List
Chapter 26, Laws of 2003, 1st sp.s., Partial Veto (SSB 5401)

	State Bonds	Total
Total Higher Education	**580,933,171**	**759,436,197**
Public Schools		
State Board of Education		
Port Angeles School District North Olympic Skill Center	2,000,000	2,000,000
Resource Efficiency Pilot Project	1,500,000	1,500,000
School Construction Assistance Grants	118,050,000	399,768,513
Total	121,550,000	403,268,513
Public Schools		
State School Construction Assistance Program Staff	0	2,038,390
Total Public Schools	**121,550,000**	**405,306,903**
Other Education		
State School for the Blind		
Boiler House Renovation/Electrical Vault Replacement	668,000	668,000
Campus Preservation	770,000	770,000
Kennedy, Dry and Irwin Buildings Preservation	2,279,000	2,279,000
Total	3,717,000	3,717,000
Washington State Historical Society		
Lewis & Clark Trail Interpretive Infrastructure Grant Program	1,000,000	1,000,000
Stadium Way Research Center-Code Violation Correction	461,200	461,200
State History Museum Preservation	60,000	60,000
Washington Heritage Project	4,000,000	4,000,000
Total	5,521,200	5,521,200
Total Other Education	**9,238,200**	**9,238,200**
Projects Total	**1,350,555,258**	**2,568,235,266**
GOVERNOR VETO		
Governmental Operations		
Office of the State Auditor		
Moving and Equipment Costs	0	-100,000
Dept of General Administration		
Heritage Park	0	-500,000
Total Governmental Operations	**0**	**-600,000**

pv = Partial Veto; v = Veto

2003-05 Capital Budget

New Appropriations Project List

Chapter 26, Laws of 2003, 1st sp.s., Partial Veto (SSB 5401)

	State Bonds	Total
Natural Resources		
Department of Ecology		
Local Toxics Grants to Locals for Cleanup and Prevention	0	-1,800,000
Dept of Fish and Wildlife		
Wind Power Mitigation	-500,000	-500,000
Department of Natural Resources		
Digitize Geology Library Collections	-900,000	-900,000
Total Natural Resources	**-1,400,000**	**-3,200,000**
Governor Veto Total	**-1,400,000**	**-3,800,000**

TOTALS

	State Bonds	Total
Projects Total	1,350,555,258	2,568,235,266
Governor Veto Total	-1,400,000	-3,800,000
Statewide Total	**1,349,155,258**	**2,564,435,266**

BOND CAPACITY ADJUSTMENTS

The decisions to not reappropriate the following amounts result in a statewide bond total for debt limit management purposes of $1,341,144,255.

	State Bonds
Dept of Social and Health Services	
Green Hill School-Intensive Management Unit: Renovation	-3,200,000
Maple Lane School-Multi-Services Building: Renovation	-227,695
Community/Technical College System	
Clover Park Technical College: Building 18 Machine Trades	-4,583,308
Bond Capacity Adjustments Total	**-8,011,003**

BOND CAPACITY

	State Bonds
Statewide Bonds Total	1,349,155,258
Bond Capacity Adjustments	-8,011,003
Total for Bond Capacity Purposes	**1,341,144,255**

pv = Partial Veto; v = Veto

2003 Supplemental Capital Budget

New Appropriations Project List

Chapter 10, Laws of 2003, Partial Veto (SSB 5403)

	State Bonds	Total
NEW PROJECTS		
Governmental Operations		
Dept Community, Trade, Econ Dev		
Inland Northwest Regional Sports and Recreational Project	-1,500,000	-1,500,000
Public Works Trust Fund	0	58,072,911
Total	-1,500,000	56,572,911
Dept of General Administration		
Legislative Building: Rehabilitation	6,000,000	6,000,000
Total Governmental Operations	**4,500,000**	**62,572,911**
Natural Resources		
Interagency Comm for Outdoor Rec		
National Recreation Trails Program (NRTP)	0	200,000
Higher Education		
Western Washington University		
Job Creation & Infrastructure Projects	1,500,000	1,500,000
Projects Total	**6,000,000**	**64,272,911**
NEW APPROPRIATION ADJUSTMENTS		
Washington State University		
WSU Pullman - Energy Plant - Heat: Renovation	1,539,000	1,539,000
Community/Technical College System		
Clover Park - Building 18 Machine Trades: New Facility	-4,583,308	-4,583,308
Total Higher Education	**-3,044,308**	**-3,044,308**
Appropriation Adjustments Total	**-3,044,308**	**-3,044,308**
REAPPROPRIATION ADJUSTMENTS		
Human Services		
Dept of Social and Health Services		
Eastern State Hospital: Legal Offender Unit	-2,115,463	-2,115,463
Higher Education		
Washington State University		
WSU Pullman - Teaching and Learning Center: New Facility	-1,539,000	-1,539,000
Reappropriation Adjustments Total	**-3,654,463**	**-3,654,463**

2003 Supplemental Capital Budget
New Appropriations Project List
Chapter 10, Laws of 2003, Partial Veto (SSB 5403)

	State Bonds	Total
TOTALS		
Projects Total	6,000,000	64,272,911
Appropriation Adjustments Total	-3,044,308	-3,044,308
Reappropriation Adjustments Total	-3,654,463	-3,654,463
Statewide Total	**-698,771**	**57,574,140**

2003-05 Transportation Budget Overview

The 2003 Legislature faced the challenge of balancing growing demands for new revenues for transportation with possible impacts that an increase in taxes or fees may have on a weak economy. The issues surrounding transportation financing were tightly interwoven with a widespread desire to improve the accountability and efficiency of the state's transportation system.

Consideration of new revenue for transportation was made in the context of recent revenue reductions brought about by voter approval and subsequent Legislative endorsement of Initiative 695 in the 2000 legislative session. I-695 eliminated the state Motor Vehicle Excise Tax (MVET) that was a significant source of funding for the ferry system, public transit, and highway construction.

Initiative 776 (Chapter 1, Laws 2003), which passed in November 2002 further reduced state and local transportation revenues by eliminating several local option motor vehicle taxes and eliminating a portion of the state truck weight fee. I-776 was pending appeal during the 2003 session.

During the same November 2002 election, the voters rejected Referendum 51, which was placed on the ballot by the 2002 Legislature. Referendum 51 proposed to raise transportation taxes and fees and was accompanied by a specific expenditure plan for the new funds and reform measures linked to the passage of the new revenues.

Session Outcomes

Within the 105 day regular session, the Legislature passed a package of transportation bills that raised transportation fees and taxes, created a performance audit board, instituted changes in contracting and permitting to increase efficiencies, addressed ferry system financing and services, provided local transportation agencies additional resources and flexibility, and established a ten-year investment plan with a clearly defined project list and timelines.

The bills passed that address accountability, efficiencies, and local government financing include:

Accountability

- ✓ Performance audits and citizen involvement in oversight of the transportation system – Chapter 362, Laws of 2003 (SSB 5748)
- ✓ Legislators' membership in project planning organizations – Chapter 351, Laws of 2003 (ESB 5245)

Efficiency

- ✓ Contracting out, prevailing wage process reforms, and transportation efficiencies – Chapter 363, Laws of 2003 (SSB 5248)
- ✓ Transportation permit streamlining – Chapter 8, Laws of 2003 (ESB 5279)
- ✓ Ferry terminal alternative contracting – Chapter 352, Laws of 2003 (SSB 5520)
- ✓ Authorizing public transportation benefit areas and ferry districts to operate passenger-only ferry service – Chapter 83, Laws of 2003 (ESHB 1853)
- ✓ Exercising sound business practices to enhance revenues for Washington State Ferries – Chapter 374, Laws of 2003 (SSB 5974)
- ✓ Incentives for private passenger-only operations – Chapter 373, Laws of 2003 (EHB 1388)

Regional Options

- ✓ Regional Transportation Investment District Area (RTID) Equity – Chapter 194, Laws of 2003 (SHB 2033)
- ✓ Regional Transportation Investment District Bonding – Chapter 372, Laws of 2003 (SB 5769)

✓ Local gas tax – Chapter 350, Laws of 2003 (ESSB 5247)

New Transportation Revenues

Chapter 361, Laws of 2003, Partial Veto (ESHB 2231)
The Legislature passed a transportation revenue package to support a list of projects and programs identified in the transportation budget. The funds from the five-cent fuel tax and weight fee increases are deposited into a separate account within the Motor Vehicle Fund. The new account, the Transportation 2003 Account, is also referred to as the Nickel Account.

Expenditures from the account must be used only for projects or improvements identified as transportation 2003 projects or improvements in the omnibus transportation budget and to pay for the principle and interest on the bonds authorized for transportation 2003 projects. Upon completion of the projects, any money remaining in the account must be used for principle and interest on the bonds authorized for transportation 2003 projects. Any funds in excess of the bond payments may be used for maintenance on those projects. The five-cent fuel tax expires when the bond payments for the identified projects are completely paid for.

10-Year Revenue Plan
(Dollars in Thousands)

Revenues Restricted to Highway Use (18th Amendment):	
Five Cent Fuel Tax Increase	1,747,250
15 Percent Increase to Weight Fees	118,224
Title Fee Transfer to Nickel Account	58,500
Total Cash Revenue	1,923,974
Bond Proceeds	2,600,000
Debt Service on New Bonds	-950,471
Total 18th Amendment Funds	3,573,503
Mobility Revenues (Available for any Transportation Investment):	
Sales Tax on Motor Vehicles (three tenths of 1 percent)	347,797
Plate Retention Fee	40,000
Total Cash Revenue	387,797
Bond Proceeds	349,500
Less Debt Service	-132,100
Total Mobility Revenues	605,197
Total 10-Year Revenues	**4,178,700**

Transportation Investments

Chapter 360, Laws of 2003, Partial Veto (ESHB 1163)
The transportation budget includes expenditure authorization for both the new revenue authorized in ESHB 2231 and revenues that are realized from the pre-existing user fees and taxes.

The new revenue supports a transportation package that includes both highway construction and non-highway transportation alternatives. The size of the highway portion of the package (18th amendment revenues) was established to fix safety and congestion problems in the 39 counties and to be the foundation for the three county RTID in the Puget Sound region. The package makes specific project appropriations to hold the Department of Transportation to cost estimates and timelines. Of the new funding, 93.2 percent is provided for specific projects whose name and description may be found in lists incorporated into the budget.

The new funding is tied to a 2003 highway project list outlining where the funds will be spent. The projects will accomplish the following objectives in the next ten years:

Lane miles added	269
Completes usable segments*	99
New interchanges	11
Significant interchange improvements	25
Projects that include High Occupancy Vehicle (HOV) lanes	16
** state highway mobility and safety improvement segments*	

Ten-Year Planned Expenditure Highlights (New and Existing Resources)

Highway Investments

Safety is a priority for funding. The package makes investments in safety projects throughout the state. One such project invests $177 million to begin to repair the Alaskan Way Viaduct. Others fix unsafe highways, for example, State Route (SR) 270 in Pullman, replace dangerous intersections, widen two-lane roadways, straighten dangerous curves, build left turn lanes, improve dangerous bridges, install traffic signals, and install median barriers to prevent vehicles from crossing the center line.

- **Preservation is also a priority for funding.** The package includes funding to replace crumbling concrete road surfaces, repair bridges in danger of collapse during earthquakes, replace the east half of the Hood Canal Bridge, repair the Yakima Bridge in Richland on SR 240, and makes other major investments to make sure that existing facilities are maintained.

- **Congestion relief is significantly addressed.** The amount of $2.2 billion will be invested in the Central Puget Sound road system to improve Interstate (I)-405; add HOV lanes on I-5, SR 167, SR 16, and other roadways; and make other investments that will allow traffic to move more freely. The North-South freeway in Spokane is funded at $190 million, to address an identified bottleneck. Other investments are made in congested areas throughout the state.

Non-highway Mobility Investments:

- **Passenger-only ferry service.** The transportation budget maintains a state role in the passenger-only ferry business, funding service between Vashon Island and Seattle, as well as 13 weeks of service between Bremerton and Seattle. Newly passed legislation (Chapter 83, Laws of 2003 – ESHB 1853) gives Kitsap Transit the opportunity to reinstitute passenger-only service between Bremerton and Seattle.

- **Rural and urban transit.** The package makes an investment in transit, with nearly $100 million for local transit service for the elderly and disabled who depend on transit. There is also new investment in rural transit service. Funding for the Seattle street car to serve South Lake Union is provided.

- **Passenger rail.** Investments of $183 million are made in the passenger rail system, with critical track improvements from Vancouver, Washington to Bellingham. The package provides funding to purchase another trainset to operate an additional run between Seattle and Portland.

- **Freight rail.** To improve the movements of goods throughout the state and to the ports, $45 million is provided, which will reduce truck traffic on the state's highways.

- **Commute trip reduction.** Provides $30 million for tax incentives and grants to businesses that provide financial incentives to employees to reduce the number of single occupant vehicle trips.

- **Vanpools.** Funding in the amount of $30 million is provided for vanpools to provide commuting options.

- **Off-road recreation.** Funding for off-road recreation is increased each biennium for a total increase of $20 million over ten years by increasing the base calculation method by one cent per biennium over the next five biennia.

- **Rail Barge Facility.** Funding of $15.5 million is provided for the facility to accommodate oversized cargo to complement the Port of Everett's existing deep-water terminals. (Chapter 26, Laws of 2003, 1st sp.s., Partial Veto, Section 509 – SSB 5401)

Ferry System

- **Four new auto ferries**. The sum of $67 million is provided for a new auto ferry (in addition to three new auto ferries provided for in current law).

- **Terminal improvements.** The amount of $231 million is provided for the Mukilteo multimodal terminal, the Anacortes multimodal terminal, the Edmonds multimodal terminal, and preservation of terminals at Lopez, Friday Harbor, Bremerton, Seattle, Vashon, Tahlequah, Southworth, and Point Defiance.

Clean Air and Water Protection.

- **Neah Bay rescue tug.** The tug is fully funded at $2.7 million a biennium through fiscal year 2008. (Chapter 264, Laws of 2003, Partial Veto – ESSB 6072)

- **Clean air funding.** The amount of $10 million is provided per biennium through fiscal year 2008. The funds will be used to retrofit school buses and reduce air pollution. (Chapter 264, Laws of 2003, Partial Veto – ESSB 6072)

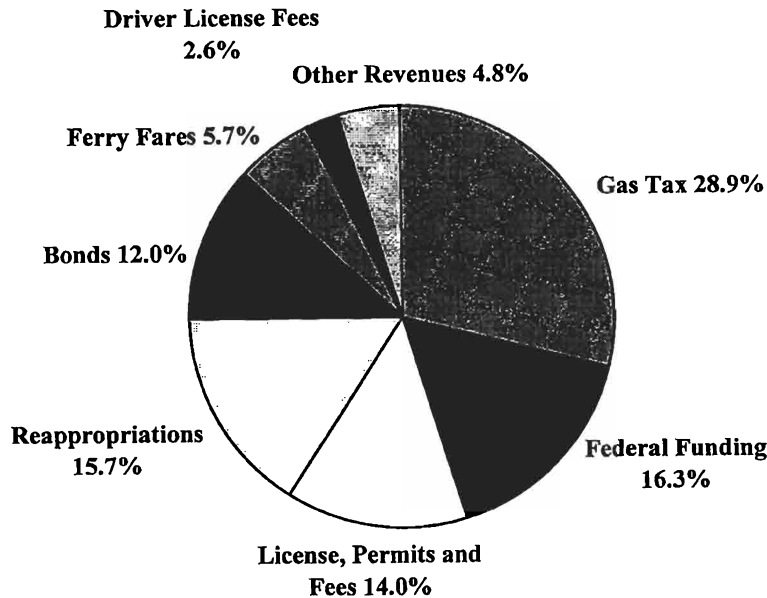
Other 2003 Transportation Related Legislation

Chapter 147, Laws of 2003 (ESB 6062) – Transportation Bonds

- Authorizes $2.6 billion in general obligation bonds backed by the motor fuel tax.
- Authorizes $350 million non-debt limit general obligation bonds backed by revenues from the Multimodal Transportation Account (sales tax on vehicles).
- The following Monorail bonding provisions are established:
  - The monorail may covenant with the holders of its bonds that it may not be dissolved and shall continue to exist solely for the purpose of continuing to levy and collect any taxes or assessments levied by it and pledged to the repayment of debt;

- o No debt backed by the covenant shall be incurred by the authority on a project until 30 days after a final environmental impact statement on that project has been issued;
- o The amount of the authority's initial bond issue is limited to the amount of the project costs in the subsequent two years as documented by a certified engineer or by submitted bids, plus any reimbursable capital expenses already incurred;
- o The first bond issue may be sized consistent with the Internal Revenue Service five-year spend down schedule if an independent financial advisor recommends such an approach is financially advisable.

2003–05 Revenues



2003-05 Revenue Sources
(Dollars in Millions)

	Existing Revenue	New Revenue	Total Revenue
Gas Tax	1,066	301	1,367
Federal Funding	771		771
License, Permits, and Fees	659		659
Reappropriations	742		742
Bonds	242	327	569
Ferry Fares	270		270
Driver License Fees	122		122
Vehicle Sales Tax		58	58
Miscellaneous	56		56
Rental Car Tax	45		45
Local Funds	37		37
15 Percent Gross Weight Fee		21	21
License Plate Retention		8	8
Total	**4,010**	**715**	**4,725**

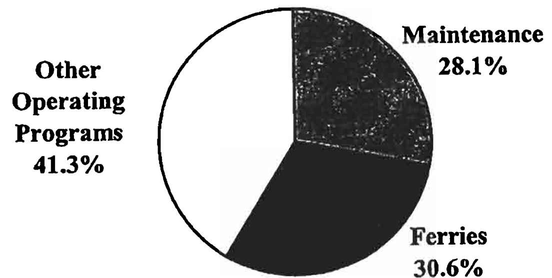
2003 Transportation Budget (ESHB 1163)

2003–05 Investments

The 2003-05 budget (includes the transportation budget Chapter 360, Laws of 2003, Partial Veto – ESHB 1163 and transportation related appropriations from the omnibus capital budget Chapter 26, Laws of 2003, 1st sp.s., Partial Veto – SSB 5401) funds operating and capital investments from existing revenue sources and new tax revenues.

WSDOT Operating Budget – $1.031 Billion

The largest component of the Department of Transportation's operating budget is the ferry system, which is appropriated $315 million in 2003-05. The budget maintains passenger-only service to Vashon and temporary service to Bremerton. It maintains existing auto-ferry routes. The budget endorses the bulk of the "5+5+5" plan (5 percent revenue increase, 5 percent ridership increase, and 5 percent expenditure decrease).

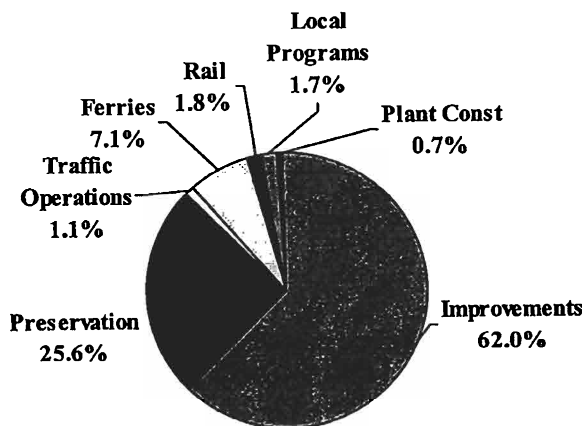


Highway maintenance is the second largest component, budgeted at $289 million. Other operating costs of $427 million include traffic operations; information technology; transportation planning, data, and research; management; and other charges necessary to run a large state agency.

Of the new transportation revenue, $38 million will be spent on mobility improvements in the 2003-05 biennium. This includes funds to transit agencies and non-profit organizations for paratransit service, rural mobility, and sales tax equalization ($28 million); vanpools ($4 million); and commute trip reduction investments ($6 million).

WSDOT Capital Budget - $2.587 Billion

The Department of Transportation's capital budget for the 2003-05 biennium includes revenues from current sources and the new tax increases. Current revenue sources are invested in preservation of the existing highway system ($657 million); the ferry system ($183 million); improvements to the highway system ($1.597 billion of which $613 million is for the Tacoma Narrows Bridge); traffic operations ($29 million); rail capital ($45 million); Plant Construction ($17 million); and for local capital needs of ($59 million).



New tax increases are invested in preservation, safety, and improvements to the highway system ($572 million); the ferry system ($18 million); rail projects ($30 million); and local capital needs ($6 million).

Other Agencies Operating Budgets – $474 Million

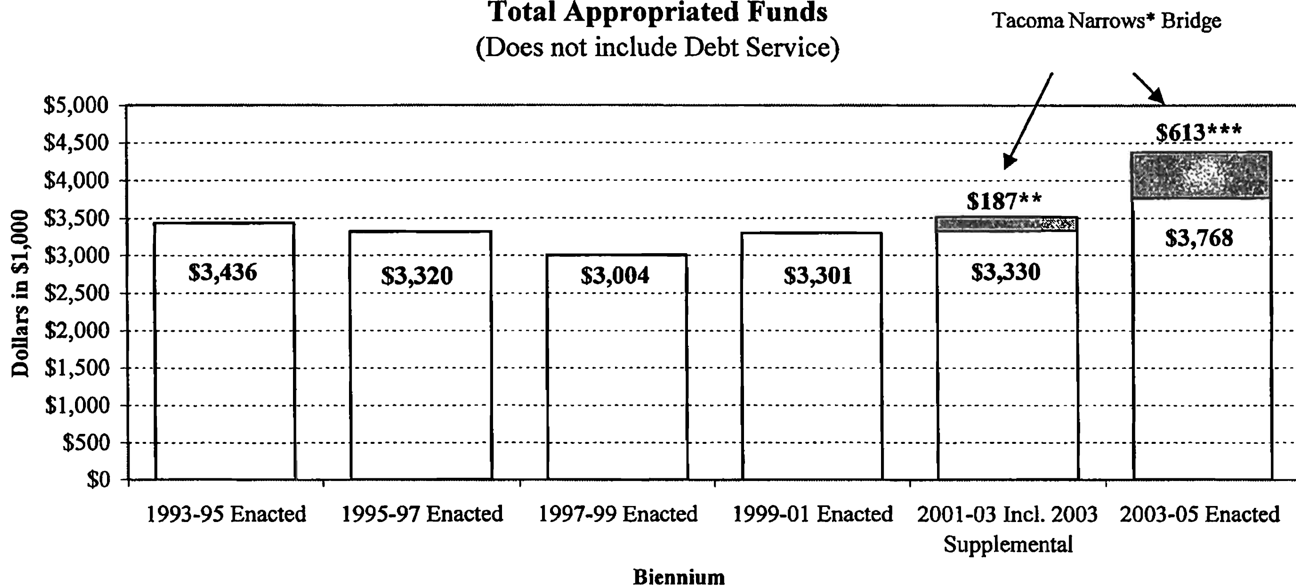
Other agencies funded in the 2003-05 biennium transportation budget include the Washington State Patrol, funded at $251 million; the Department of Licensing, funded at $182 million; and other state transportation-related agencies that are funded at $41 million.

Other initiatives include continued ferry security enhancements and improvements to agency computer infrastructures to improve service to the public.

The County Road Administration Board, the Transportation Improvement Board, and the Freight Mobility Strategic Investment Board remain as separate agencies in this budget.

Other Agencies Capital Budgets - $289 Million

The capital budget for the Transportation Improvement Board totals $198 million, for road-related grants, primarily to urban areas. The County Road Administration Board, which makes road-related grants to rural areas, is appropriated $91 million in capital funds.



* Tacoma Narrows Bridge funded primarily through the issuance of bonds to be paid by user fees

** $187M was actually spent on Tacoma Narrows Bridge. $846M was originally appropriated in the budget.

*** $613M was reappropriated from the original $846M appropriated in the 2001-03 budget.

2003-05 Washington State Transportation Budget

Agency Summary
TOTAL OPERATING AND CAPITAL BUDGET
Total Appropriated Funds
(Dollars in Thousands)

	Enacted
Department of Transportation	**3,603,586**
Pgm C - Information Technology	70,770
Pgm D - Hwy Mgmt & Facilities	48,344
Pgm F - Aviation	6,039
Pgm H - Pgm Delivery Mgmt & Suppt	49,410
Pgm I1 - Improvements - Mobility	717,257
Pgm I2 - Improvements - Safety	140,280
Pgm I3 - Improvements - Econ Init	103,827
Pgm I4 - Improvements - Env Retro	22,171
Pgm I7 - Tacoma Narrows Br	613,300
Pgm K - Transpo Economic Part	1,011
Pgm M - Highway Maintenance	289,029
Pgm P1 - Preservation - Roadway	255,060
Pgm P2 - Preservation - Structures	325,460
Pgm P3 - Preservation - Other Facil	76,459
Pgm Q - Traffic Operations	68,192
Pgm S - Transportation Management	27,554
Pgm T - Transpo Plan, Data & Resch	47,899
Pgm U - Charges from Other Agys	61,082
Pgm V - Public Transportation	49,186
Pgm W - WA State Ferries-Cap	182,596
Pgm X - WA State Ferries-Op	314,700
Pgm Y - Rail	80,374
Pgm Z - Local Programs	53,586
Washington State Patrol	**251,099**
Field Operations Bureau	177,611
Support Services Bureau	71,283
Capital	2,205
Department of Licensing	**182,151**
Management & Support Services	13,185
Information Systems	17,927
Vehicle Services	63,336
Driver Services	87,703
Legislative Transportation Comm	2,374
Board of Pilotage Commissioners	272
Utilities and Transportation Comm	293
WA Traffic Safety Commission	20,820
County Road Administration Board	94,184
Transportation Improvement Board	200,647
Marine Employees' Commission	352
Transportation Commission	807
Freight Mobility Strategic Invest	616
State Parks and Recreation Comm	972
Department of Agriculture	315
State Employee Compensation Adjust	-4,855
Total Appropriation	**4,353,633**
Bond Retirement and Interest	352,296
Total	**4,705,929**

2001-03 Washington State Transportation Budget

TOTAL OPERATING AND CAPITAL BUDGET

Total Appropriated Funds

(Dollars in Thousands)

	2001-03 Approp Auth	2003 Supplemental	Revised 2001-03
Department of Transportation	**3,395,705**	**5,956**	**3,401,661**
Pgm D - Hwy Mgmt & Facilities	64,090	-675	63,415
Pgm F - Aviation	5,509	-382	5,127
Pgm I1 - Improvements - Mobility	444,862	-551	444,311
Pgm I2 - Improvements - Safety	146,326	0	146,326
Pgm I3 - Improvements - Econ Init	125,367	0	125,367
Pgm I4 - Improvements - Env Retro	23,071	0	23,071
Pgm I7 - Tacoma Narrows Br	846,255	0	846,255
Pgm K - Transpo Economic Part	2,848	0	2,848
Pgm M - Highway Maintenance	279,959	0	279,959
Pgm P1 - Preservation - Roadway	276,165	0	276,165
Pgm P2 - Preservation - Structures	162,393	0	162,393
Pgm P3 - Preservation - Other Facil	119,102	0	119,102
Pgm Q - Traffic Operations	56,229	0	56,229
Pgm S - Transportation Management	107,374	0	107,374
Pgm T - Transpo Plan, Data & Resch	33,283	0	33,283
Pgm U - Charges from Other Agys	42,829	5,626	48,455
Pgm V - Public Transportation	14,239	0	14,239
Pgm W - WA State Ferries-Cap	177,362	0	177,362
Pgm X - WA State Ferries-Op	311,312	1,938	313,250
Pgm Y - Rail	54,441	0	54,441
Pgm Z - Local Programs	102,689	0	102,689
Washington State Patrol	**257,010**	**-359**	**256,651**
Field Operations Bureau	171,594	-41	171,553
Investigative Services Bureau	5,088	0	5,088
Support Services Bureau	77,718	-318	77,400
Capital	2,610	0	2,610
Department of Licensing	**170,818**	**911**	**171,729**
Management & Support Services	12,524	54	12,578
Information Systems	9,723	41	9,764
Vehicle Services	63,035	288	63,323
Driver Services	85,536	528	86,064
Legislative Transportation Comm	3,596	0	3,596
LEAP Committee	488	0	488
Office of the State Auditor	126	0	126
Board of Pilotage Commissioners	305	0	305
Utilities and Transportation Comm	126	0	126
WA Traffic Safety Commission	8,813	0	8,813
County Road Administration Board	89,341	0	89,341
Transportation Improvement Board	239,181	0	239,181
Marine Employees' Commission	332	0	332
Transportation Commission	773	0	773
Freight Mobility Strategic Invest	717	0	717
State Parks and Recreation Comm	1,582	0	1,582
Department of Agriculture	305	0	305
Total Appropriation	**4,169,218**	**6,508**	**4,175,726**
Bond Retirement and Interest	307,628	-16,830	290,798
Total	**4,476,846**	**-10,322**	**4,466,524**

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Palouse Falls is located in the south central part of the Columbia Basin province.

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Columbia Basin

The physiographic province known as the Columbia Basin is a vast plateau involving eastern Washington, southwestern Idaho and northern Oregon. This province is best defined by four flood basalt formations created between 17.5 and six million years ago. The Columbia Basin is 16,000 ft. deep at the thickest and comprises 36 percent of Washington. More is known about the Columbia Basin than any other continental flood basalts.

These flows of liquid molten rock issued from vents and fissures in the southeast corner of the state and were so fluid a number of them reached the Pacific Ocean via the Columbia River drainage. In between major basalt flows the surface eroded and sediments were deposited leading to the creation of lakes and forests. Ensuing flows engulfed these forests and lakes. Today, Washington is a major producer of diatomite from the former lake beds and Ginkgo Petrified Forest State Park provides a fascinating view of these petrified trees.

One of the most catastrophic floods ever recorded in the geologic record occurred in this province. The Pleistocene Cordilleran ice sheet dammed the Clark Fork River at the Montana border. This formed Lake Missoula which had the volume of present-day Lake Michigan. When the water gave way between 12,000 and 15,000 years ago, water raced down the Spokane Valley and spread over the Columbia Basin cutting channels into the basalt and the accumulated glacial sediment. The resulting topography of buttes, dry water falls, hanging valleys and giant ripples are known as the Channeled Scablands.

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SHB	2118	Microbrew beer	C 154	L 03
SHB	2132	Public building contracts	C 323	L 03
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SB	5065	Geologist license	C 292	L 03
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SSB	5088	Tacoma land/schools	C 29	L 03
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SB	5363	Economic revitalization board	C 150	L 03		
ESB	5374	Help America Vote act	C 48	L 03		
ESB	5379	Dependency petition hearings	C 228	L 03		
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C	53	L 03	Criminal statutes	SB 5758
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C	55	L 03	Scenic and recreational highways	SB 5937
C	56	L 03	Vessel fin responsibility	ESB 5938
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C	87	L 03	UCC Article 9A	SSB 5561
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C	200	L 03	Residential property seller disclosure	SHB 1634
C	201	L 03	Real estate licensees	SB 5413
C	202	L 03	Title insurance agents	SSB 5310
C	203	L 03	Collection agencies	SB 5211
C	204	L 03	Mental health client information	SHB 1785
C	205	L 03	Combined fund drive	SB 5156
C	206	L 03	Agency allotments	SHB 2196
C	207	L 03	DSHS reports	EHB 1561
C	208	L 03	Public assistance reports	HB 1635
C	209	L 03	Fire protection districts	SSB 5824
C	210	L 03	Water quality leaching test	SSB 5787
C	211	L 03	Electrician certification	ESB 5210
C	212	L 03	Structural pest inspectors	SHB 1269
C	213	L 03	Voyeurism	ESHB 1001
C	214	L 03	Fraudulent drivers' licenses	SSB 5716
C	215	L 03	Sex and kidnapping offenders	HB 1712
C	216	L 03	Secure community transition facilities	ESB 5991
C	217	L 03	Sex offender public information	SB 5410
C	218	L 03	Sex offender postrelease	SSB 5749
C	219	L 03	Law enforcement detention	SHB 2094
C	220	L 03	Deferred prosecutions	SSB 5396
C	221	L 03	Proof of insurance	HB 1576
C	222	L 03	Garnishments	SSB 5592
C	223	L 03	Service of summons	HB 1226
C	224	L 03	Workers' compensation appeal board	SB 5515
C	225	L 03	Family law handbook	SB 5970
C	226	L 03	Foster care	SSB 5811
C	227	L 03	Sibling relationships	ESSB 5779
C	228	L 03	Dependency petition hearings	ESB 5379
C	229	L 03	Juvenile rehabilitation facilities	SSB 5596
C	230	L 03	Vulnerable adults	ESHB 1904
C	231	L 03	Boarding homes	SSB 5579
C	232	L 03	Higher education tuition	ESSB 5448

PV: Partial Veto; E1: First Special Session; E2: Second Special Session

C	233	L 03	Education opportunity grant	ESB 5676
C	234	L 03	School diplomas for veterans	SSB 5358
C	235	L 03 PV	Economic development commission	ESHB 1509
C	236	L 03	Cigarette tax contracts	SSB 5933
C	237	L 03	Abandoned property	SSB 5737
C	238	L 03	County office vacancies	HB 1473
C	239	L 03	Delivery of endorsements	SB 5477
C	240	L 03	Local government records	HB 2073
C	241	L 03	Fees for vital records	SSB 5545
C	242	L 03	Electricians	SSB 5434
C	243	L 03	Construction aggregates	SSB 5305
C	244	L 03 PV	Highway rights of way	ESSB 5977
C	245	L 03	Integrated permit system	2SSB 5694
C	246	L 03	Administrative rule notice	ESSB 5766
C	247	L 03	Judge pro tempore	HB 1954
C	248	L 03	Insurance code	HB 1083
C	249	L 03	Domestic mutual insurers	HB 1654
C	250	L 03	Unlawful transaction/insurance	SSB 5641
C	251	L 03	Insurer foreign investments	SSB 5616
C	252	L 03	Cooperative associations	SB 5726
C	253	L 03	Fire protection districts	SB 5654
C	254	L 03	RCW outdated references	HB 1351
C	255	L 03	Agricultural workers	2SSB 5890
C	256	L 03	Liability for charity care	SSB 5601
C	257	L 03	Dental hygientists	SSB 5327
C	258	L 03	Nursing technicians	SSB 5829
C	259	L 03	Basic health care plan	SB 6057
C	260	L 03 PV	Mercury	ESHB 1002
C	261	L 03	Biodiesel and alcohol fuel	2SHB 1240
C	262	L 03	Shoreline management	SSB 6012
C	263	L 03	Shellfish license fee	SSB 6073
C	264	L 03 PV	Pollution abatement/response	ESSB 6072
C	265	L 03	Legislative international trade account	ESSB 5178
C	266	L 03	Trafficking of persons	EHB 1090
C	267	L 03	Trafficking persons	SHB 1175
C	268	L 03	Trafficking in persons	SHB 1826
C	269	L 03	Police horses	HB 1108
C	270	L 03	Law officer training	SSB 5473
C	271	L 03 PV	Child support payments	SHB 1571
C	272	L 03	Sex offender death certificate	HB 1727
C	273	L 03	Hepatitis C	SSB 5039
C	274	L 03	HIV insurance program	SHB 1275
C	275	L 03	Health department licensing	HB 1296
C	276	L 03	State purchased health care	ESHB 1299
C	277	L 03	Health information privacy	HB 1444
C	278	L 03	Health care personnel shortage	ESHB 1852
C	279	L 03	Medicaid personal care plans	HB 1621

C	280	L 03	Boarding home inspections	SHB 1694
C	281	L 03	Children's mental health	2SHB 1784
C	282	L 03	Dentistry	SHB 1721
C	283	L 03	Mental health advance directives	ESSB 5223
C	284	L 03 PV	Kinship caregivers	SHB 1233
C	285	L 03	At-risk youth study	SHB 1028
C	286	L 03	Day-care facilities	HB 1170
C	287	L 03	Money transmission and exchange	SHB 1455
C	288	L 03	Securities violations	SHB 1219
C	289	L 03	Mortgage lending fraud	SHB 1081
C	290	L 03	Public accountancy act	SHB 1211
C	291	L 03	State building code	SHB 1734
C	292	L 03	Geologist license	SB 5065
C	293	L 03	Fire fighters' retirement	SHB 1202
C	294	L 03 PV	Retirement system statutes	HB 1200
C	295	L 03	Pension policy select committee	SHB 1204
C	296	L 03	Utilities and transportation fees	HB 1356
C	297	L 03	Utilities/mobile home parks	ESHB 1524
C	298	L 03	Environmental review	SHB 1707
C	299	L 03	Annexation	SHB 1755
C	300	L 03	Public works bidding	ESHB 2056
C	301	L 03	Public works job order contract	SHB 1788
C	302	L 03	Listing property/tax purpose	SHB 1278
C	303	L 03	Disposition of property	SHB 1494
C	304	L 03	Flood control zone districts	SHB 1291
C	305	L 03	Confidential public records	SHB 1153
C	306	L 03	Irrigation district boards	SHB 1113
C	307	L 03	Public ground waters	EHB 2067
C	308	L 03	Seed testing fees	HB 1126
C	309	L 03	Fire protection districts	SHB 1837
C	310	L 03	Marina lease rates	SHB 1250
C	311	L 03	Small forest landowners	2SHB 1095
C	312	L 03	Department of Natural Resources	SB 5042
C	313	L 03	Timber harvest/trust lands	2SSB 5074
C	314	L 03	Forest health	SSB 5144
C	315	L 03	Timber purchase reports	HB 2063
C	316	L 03	Fire fighting training	SB 5176
C	317	L 03	Wildlife viewing	SSB 5204
C	318	L 03	Catch record cards	2SHB 1725
C	319	L 03	Financial aid refunds	HB 2113
C	320	L 03	Liquor license suspension	SHB 1495
C	321	L 03	Shoreline and growth management	ESHB 1933
C	322	L 03	Lead-based paint activities	ESSB 5586
C	323	L 03	Public building contracts	SHB 2132
C	324	L 03	TESC capital projects account	HB 2223
C	325	L 03	Animal feeding operations	ESSB 5889
C	326	L 03	Livestock identification	SSB 5891

C	327	L 03 PV	Watershed management	ESB 5073
C	328	L 03	Watershed planning	ESB 5343
C	329	L 03	Small irrigation impoundment	SSB 5575
C	330	L 03 PV	Public water projects	ESB 5014
C	331	L 03	Direct petition annexation	SSB 5409
C	332	L 03	Growth management boards	SB 5507
C	333	L 03	Growth management planning	SSB 5602
C	334	L 03 PV	Public land statutes	EHB 1252
C	335	L 03	Mineral trespass	SHB 1380
C	336	L 03	Commercial fishing	HB 1972
C	337	L 03	Littering	SHB 1409
C	338	L 03	Water trail recreation program	SHB 1335
C	339	L 03	Wood biomass fuel	EHB 2146
C	340	L 03	Fuel cell technology	SHB 2172
C	341	L 03	Delinquent insurer/taxpayer	SHB 2040
C	342	L 03	Tobacco escrow refunds	SHB 2038
C	343	L 03	Chemical dependency services	HB 1858
C	344	L 03	Nonprofit property tax exemption	HB 2001
C	345	L 03	Alcoholic beverages	EHB 1395
C	346	L 03 PV	State trade representative office	SHB 1173
C	347	L 03	Economic development and international relations	HB 1179
C	348	L 03	Timeshares	SHB 1442
C	349	L 03	Plan 3 retirement systems	HB 2186
C	350	L 03	Local option fuel tax	ESSB 5247
C	351	L 03	Legislators/trans planning	ESB 5245
C	352	L 03	Ferries/public contracting	SSB 5520
C	353	L 03	Electric vehicles	ESB 5450
C	354	L 03	Motorsports vehicles	SSB 5407
C	355	L 03	Hazards to motorcycles	SSB 5457
C	356	L 03	Vehicle traction equipment	SB 5284
C	357	L 03	Relocation assistance	SSB 5497
C	358	L 03	Fuel tax evasion	SSB 5190
C	359	L 03	Returned license plates	SSB 5600
C	360	L 03 PV	Transportation budget 01-03/03-05	ESHB 1163
C	361	L 03 PV	Transportation financing alternatives	ESHB 2231
C	362	L 03	Transportation performance audits	SSB 5748
C	363	L 03	Transportation efficiency	SSB 5248
C	364	L 03	Commute trip reduction	ESHB 2228
C	365	L 03	Violent video/computer games	ESHB 1009
C	366	L 03	Ignition interlock devices	SSB 5120
C	367	L 03	Driving abstracts/volunteers	SSB 5868
C	368	L 03	Vehicle dealer fees	SHB 2215
C	369	L 03	Mail-in vehicle registration	SHB 1036
C	370	L 03 PV	License plate technology	HB 2065
C	371	L 03	Special parking privileges	SHB 1655
C	372	L 03	Regional transportation investment district	SB 5769
C	373	L 03	Passenger-only ferry service	EHB 1388

C	374	L 03	State ferries	SSB 5974
C	375	L 03	Pilot and aircraft fees	SB 6056
C	376	L 03	Recreation facilities	SB 5865
C	377	L 03	Nonhighway vehicles	ESSB 5785
C	378	L 03 PV	Juvenile offender sentencing	ESSB 5903
C	379	L 03	Supervision of offenders	ESSB 5990
C	380	L 03	Court assessments/penalties	ESSB 6023
C	381	L 03	Valuable material sales	SSB 5751
C	382	L 03	Clean and sober housing	ESB 5389
C	383	L 03	TANF work activity	HB 1980
C	384	L 03	Health care volunteers	SHB 1849
C	385	L 03	Game damage to crops	SHB 1512
C	386	L 03	Commercial fishing violations	SHB 1057
C	387	L 03 PV	Sale of commercial fish	SHB 1127
C	388	L 03	Fish and Wildlife enforcement officer	HB 1205
C	389	L 03	Fish and Wildlife recreational licenses	SB 5893
C	390	L 03	Recreational boating	SB 5898
C	391	L 03 PV	Drainage infrastructure	E2SHB 1418
C	392	L 03	Drainage facilities	HB 1420
C	393	L 03	Review of permit decisions	ESSB 5776
C	394	L 03	Storm water rates and charges	ESHB 2088
C	395	L 03	Agricultural products	SHB 1100
C	396	L 03	Commodity commissions	HB 1361
C	397	L 03	Poultry	ESHB 1754
C	398	L 03 PV	Meningococcal immunization	ESHB 1827
C	399	L 03 PV	Electrical contractors	ESSB 5713
C	400	L 03	Cosmetology apprenticeships	SHB 2202
C	401	L 03	Industrial welfare act	SSB 6054
C	402	L 03	Public employee death benefits	HB 1207
C	403	L 03 PV	Research/technology comm	2SHB 1003
C	404	L 03 PV	Trade policy joint committee	SHB 1059
C	405	L 03	State Patrol fire service	SB 5935
C	406	L 03	Civil trial provisions	SHB 1675
C	407	L 03	Higher education tuition fees	E2SSB 5135
C	408	L 03 PV	Committee to host NCSL	SSB 5996
C	409	L 03	Services for the blind	SB 5705
C	410	L 03	Teacher certification	SB 6052
C	411	L 03	Residency for public schools	SHB 1470
C	412	L 03 PV	Postretirement employment	SHB 1829
C	413	L 03	School district regional comm	SB 5437

First Special Session

C	1	L 03 E1	Salary Commission recommendations	
C	2	L 03 E1	Aviation repair B&O tax	ESSB 5071
C	3	L 03 E1	Issuing general obligation bonds	ESHB 1288
C	4	L 03 E1	Concerning watershed planning	2E2SHB 1336
C	5	L 03 E1	Relating to municipal water rights	2E2SHB 1338

PV: Partial Veto; E1: First Special Session; E2: Second Special Session

C	6	L 03 E1	Direct care component rate allocation	SHB 1693
C	7	L 03 E1	Grant program for nonprofit youth organization	ESHB 1782
C	8	L 03 E1	Higher education capital projects	2ESHB 2151
C	9	L 03 E1	Definition of general state revenues	HB 2242
C	10	L 03 E1	Relating to social programs	HB 2252
C	11	L 03 E1	Funding the state retirement systems	EHB 2254
C	12	L 03 E1	Revising the state leave sharing program	HB 2266
C	13	L 03 E1	Relating to increasing revenue	EHB 2269
C	14	L 03 E1	Relating to cost sharing in medical programs	HB 2285
C	15	L 03 E1	Water pollution	ESSB 5028
C	16	L 03 E1	Nursing facility fee	E2SSB 5341
C	17	L 03 E1	Military and overseas voting	ESB 5463
C	18	L 03 E1	Higher education facilities	ESSB 5908
C	19	L 03 E1	State property taxes	ESSB 6058
C	20	L 03 E1	Teachers' cost-of-living	SB 6059
C	21	L 03 E1	Site closure account	SB 6087
C	22	L 03 E1	Professional educator standards board	ESB 6092
C	23	L 03 E1	Legislative association conferences	ESB 6093
C	24	L 03 E1 PV	Local government funding	2ESSB 5659
C	25	L 03 E1 PV	Operating budget 2003-05	ESSB 5404
C	26	L 03 E1 PV	Capital budget	SSB 5401
C	27	L 03 E1	Taxing pari-mutuel machines	SHB 2192
C	28	L 03 E1	Institutionalized persons	ESHB 2257
C	29	L 03 E1	Prescription drugs	SB 6088

Second Special Session

C	1	L 03 E2	Aerospace industry	HB 2294
C	2	L 03 E2	Workers' compensation/hearing loss	SB 5271
C	3	L 03 E2	Appropriations for 2ESB 6097	SB 6099
C	4	L 03 E2 PV	Unemployment compensation	2ESB 6097

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Rep. Geoff Simpson (D-1)
Rep. Jack D Cairnes (R-2)

District 48
Sen. Luke E Esser (R)
Rep. Ross Hunter (D-1)
Rep. Rodney Tom (R-2)

District 49
Sen. Don Carlson (R)
Rep. Bill Fromhold (D-1)
Rep. Jim Moeller (D-2)

House Agriculture & Natural Resources

Kelli Linville, *Chair*
Phil Rockefeller, *V. Chair*
Bruce Chandler
William "Ike" Eickmeyer
Bill Grant
Janea Holmquist
Sam Hunt
Dan Kristiansen
Joe McDermott
Ed Orcutt
Dave Quall
Mark G. Schoesler
Bob Sump

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Ken Jacobsen
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Larry Sheahan

House Appropriations

Helen Sommers, *Chair*
Bill Fromhold, *V. Chair*
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Jim Buck
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Eileen Cody
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Don Cox
Richard DeBolt
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Bill Grant
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Ruth Kagi
Phyllis Gutierrez Kenney
Lynn Kessler
Kelli Linville
Joyce McDonald
Jim McIntire
Mark Miloscia
Kirk Pearson
Cheryl Pflug
Laura Ruderman
Shay Schual-Berke
Barry Sehlin
Bob Sump
Gig Talcott

See Senate Ways & Means

House Capital Budget

Hans Dunshee, *Chair*
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Gary Alexander
Mike Armstrong
Brad Benson
Brian Blake
Roger Bush
Maralyn Chase
Dennis Flannigan
Shirley Hankins
Bill Hinkle
Steve Kirby
Patricia Lantz
Dave Mastin
Jim McIntire
Dawn Morrell
Edward Murray
Daniel Newhouse
Al O'Brien
Ed Orcutt
Skip Priest
Mark G. Schoesler
Geoff Simpson
Velma Veloria
Beverly Woods

see Senate Ways & Means

House Children & Family Services

Ruth Kagi, *Chair*
Jeannie Darneille, *V. Chair*
Barbara Bailey
Marc Boldt
Mary Lou Dickerson
Mark Miloscia
Eric Pettigrew
Dan Roach
Jan Shabro

Senate Children & Family Services & Corrections

Val Stevens, *Chair*
Linda Evans Parlette, *V. Chair*
Don Carlson
Alex Deccio
James Hargrove
Rosemary McAuliffe
Debbie Regala

House Commerce & Labor

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Alex Wood, *V. Chair*
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Cary Condotta
Larry Crouse
Janea Holmquist
Zack Hudgins
Phyllis Kenney
John McCoy

Senate Commerce & Trade

Jim Honeyford, *Chair*
Mike Hewitt, *V. Chair*
Rosa Franklin
Karen Keiser
Joyce Mulliken

Standing Committee Assignments

House Criminal Justice & Corrections
Al O'Brien, *Chair*
Jeannie Darneille, *V. Chair*
John Ahern
Ruth Kagi
John Lovick
Tom Mielke
Kirk Pearson

see House Trade & Economic Development

House Education
Dave Quall, *Chair*
Joe McDermott, *V. Chair*
Glenn Anderson
Don Cox
Kathy Haigh
Ross Hunter
Lois McMahan
Phil Rockefeller
Sharon Tomiko Santos
Gigi Talcott
Rodney Tom

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Jeff Gombosky, *Chair*
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John Ahern
Jack Cairnes
Steve Conway
Jeff Morris
Ed Orcutt
Dan Roach
Sharon Tomiko Santos

see Senate Children & Family Services & Corrections; Judiciary

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Tim Sheldon, *Chair*
Joseph Zarelli, *V. Chair*
Don Benton
Patricia Hale
Jeanne Kohl-Welles
Dino Rossi
Dave Schmidt
Betti Sheldon
Paull Shin

Senate Education
Stephen Johnson, *Chair*
Joseph Zarelli, *V. Chair*
Don Carlson
Tracey Eide
Bill Finkbeiner
Rosemary McAuliffe
Marilyn Rasmussen
Dave Schmidt

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House Financial Institutions & Insurance
Shay Schual-Berke, *Chair*
Geoff Simpson, *V. Chair*
Brad Benson
Jack Cairnes
Mike Carrell
Mike Cooper
Brian Hatfield
Ross Hunter
Daniel Newhouse
Dan Roach
Sharon Tomiko Santos

House Fisheries, Ecology & Parks
Mike Cooper, *Chair*
Jean Berkey, *V. Chair*
Jim Buck
Brian Hatfield
Bill Hinkle
Al O'Brien
Kirk Pearson
Bob Sump
Dave Upthegrove

see House Local Government; State Government

House Health Care
Eileen Cody, *Chair*
Dawn Morrell, *V. Chair*
Gary Alexander
Barbara Bailey
Brad Benson
Tom Campbell
Judy Clibborn
Jeannie Darneille
Jeanne Edwards
Jim Moeller
Cheryl Pflug
Shay Schual-Berke
Mary Skinner

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Shirley Winsley, *V. Chair*
Karen Keiser
Margarita Prentice
Aaron Reardon
Pam Roach
Joseph Zarelli

see Senate Parks, Fish & Wildlife

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Darlene Fairley
Jim Horn
Jim Kastama
Bob McCaslin
Aaron Reardon

Senate Health & Long-Term Care
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Rosa Franklin
Karen Keiser
Linda Evans Parlette
Pat Thibaudeau

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Marc Boldt
Jim Buck
Maralyn Chase
Jim Clements
Cary Condotta
Don Cox
Jeff Gombosky
Fred Jarrett
Patricia Lantz
John McCoy
Dawn Morrell
Skip Priest

see House Transportation

House Judiciary
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Tom Campbell
Dennis Flannigan
Steve Kirby
John Lovick
Lois McMahan
Daniel Newhouse

Senate Higher Education
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Joyce Mulliken
Betti Sheldon
Paull Shin

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Jim Horn, *Chair*
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Luke Esser
Bill Finkbeiner
Mary Margaret Haugen
Ken Jacobsen
Jim Kastama
Joyce Mulliken
Bob Oke
Margarita Prentice
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Bob McCaslin, *Chair*
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Mary Margaret Haugen
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Adam Kline
Pam Roach
Pat Thibaudeau

House Juvenile Justice & Family Law
Mary Lou Dickerson, *Chair*
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Mike Carrell
Jerome Delvin
William "Ike" Eickmeyer
Bill Hinkle
Dave Upthegrove

see House Local Government; State Government

House Local Government
Sandra Romero, *Chair*
Dave Upthegrove, *V. Chair*
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Jean Berkey
Judy Clibborn
Jeanne Edwards
Doug Ericksen
Fred Jarrett
Tom Mielke
Jim Moeller
Lynn Schindler

see House Agriculture & Natural Resources; Technology, Telecommunications & Energy

see Senate Children & Family Services & Corrections

Senate Land Use & Planning
Joyce Mulliken, *Chair*
Adam Kline
Bob McCaslin
Bob Morton
Tim Sheldon

see Senate Government Operations & Elections

Senate Natural Resources, Energy & Water
Bob Morton, *Chair*
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Mark Doumit
Karen Fraser
Patricia Hale
James Hargrove
Jim Honeyford
Bob Oke
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Standing Committee Assignments

see House Fisheries, Ecology & Parks

House Rules

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Richard Debolt
William "Ike" Eickmeyer
Bill Grant
Kathy Haigh
Brian Hatfield
Sam Hunt
Fred Jarrett
Lynn Kessler
Steve Kirby
John Lovick
Joyce McDonald
Cathy McMorris
Kirk Pearson
Laura Ruderman
Sharon Tomiko Santos
Beverly Woods

House State Government

Kathy Haigh, *Chair*
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Sam Hunt
Joe McDermott
Toby Nixon
Jan Shabro
Rodney Tom
Deb Wallace

Senate Parks, Fish & Wildlife

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Luke Esser
Ken Jacobsen
Bob Morton
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Dan Swecker

Senate Rules

Lt. Governor Brad Owen, *Chair*
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Tracey Eide
Bill Finkbeiner
Rosa Franklin
Patricia Hale
Mary Margaret Haugen
Mike Hewitt
Jim Honeyford
Jeanne Kohl-Welles
Linda Evans Parlette
Marilyn Rasmussen
Dave Schmidt
Larry Sheahan
Harriet Spanel
James West
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see Senate Government Operations & Elections

House Technology, Telecommunications & Energy

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Brian Sullivan, *V. Chair*
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Roger Bush
Larry Crouse
Richard DeBolt
Jerome Delvin
Zack Hudgins
Steve Kirby
Lois McMahan
Toby Nixon
Sandra Romero
Rodney Tom
Deb Wallace
Alex Wood

House Trade & Economic Development

Velma Veloria, *Chair*
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Brian Blake
Maralyn Chase
Cary Condotta
Dan Kristiansen
John McCoy
Joyce McDonald
Eric Pettigrew
Skip Priest
Mary Skinner

Senate Technology & Telecommunications

Luke Esser, *Chair*
Bill Finkbeiner, *V. Chair*
Tracey Eide
Erik Poulsen
Aaron Reardon
Dave Schmidt
Val Stevens

see Senate Commerce & Trade; Economic Development

House Transportation
Ed Murray, *Chair*
Phil Rockefeller, *V. Chair*
Geoff Simpson, *V. Chair*
Glenn Anderson
Mike Armstrong
Barbara Bailey
Tom Campbell
Judy Clibborn
Mike Cooper
Mary Lou Dickerson
Jeanne Edwards
Doug Ericksen
Dennis Flannigan
Shirley Hankins
Brian Hatfield
Zack Hudgins
Fred Jarrett
Dan Kristiansen
John Lovick
Thomas M. Mielke
Jeff Morris
Toby Nixon
Sandra Romero
Lynn Schindler
Jan Shabro
Brian Sullivan
Deb Wallace
Alex Wood
Beverly Woods

see Senate Highways & Transportation

see House Appropriations, Capital Budget, Finance

Senate Ways & Means
Dino Rossi, *Chair*
Mike Hewitt, *V. Chair*
Joseph Zarelli, *V. Chair (Capital Budget)*
Lisa Brown
Mark Doumit
Darlene Fairley
Karen Fraser
Patricia Hale
Jim Honeyford
Stephen Johnson
Linda Evans Parlette
Erik Poulsen
Debbie Regala
Pam Roach
Larry Sheahan
Betti Sheldon
Shirley Winsley