

2002 FINAL
LEGISLATIVE
REPORT

FIFTY-SEVENTH
WASHINGTON STATE
LEGISLATURE

2002 REGULAR SESSION

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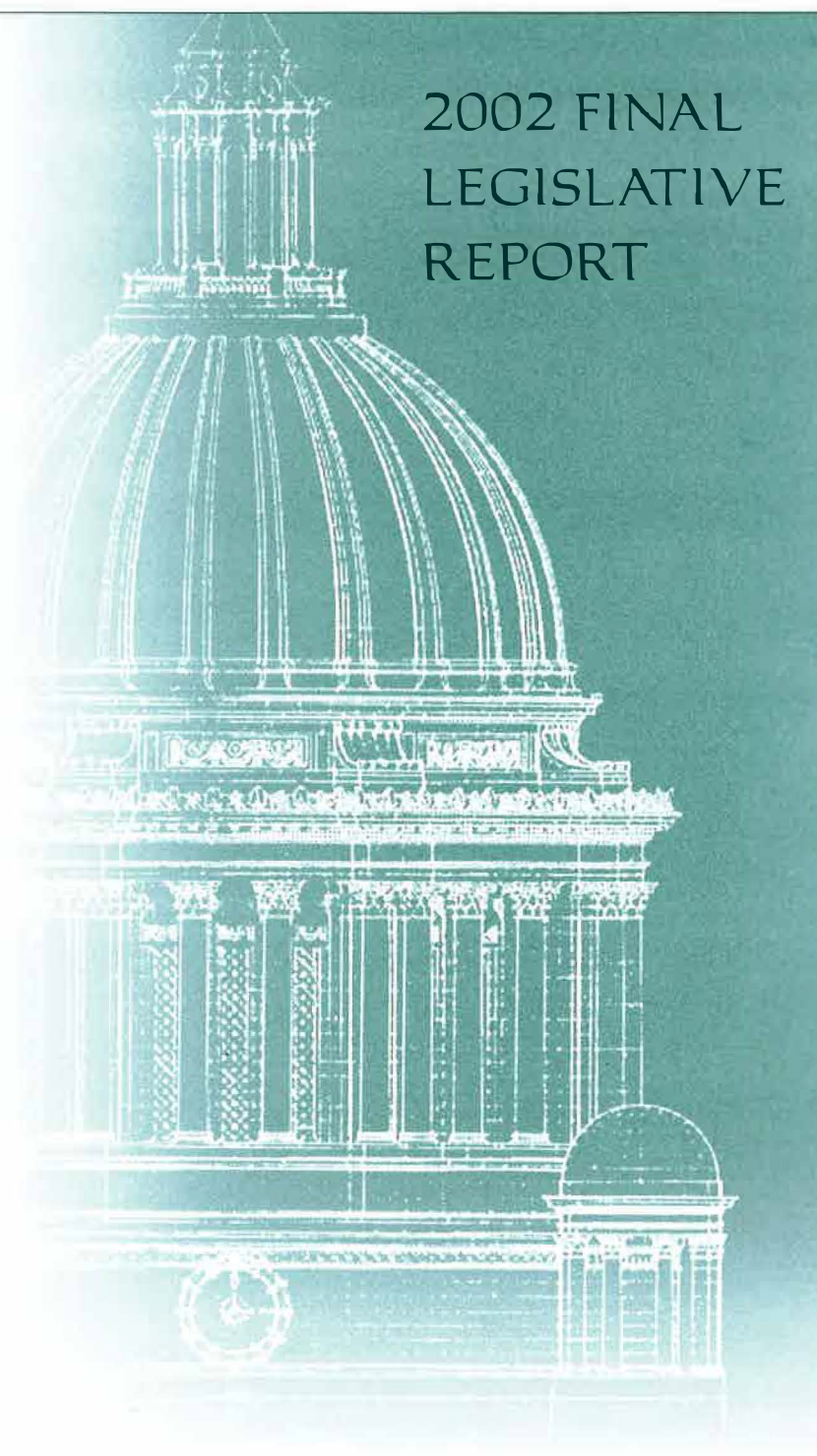
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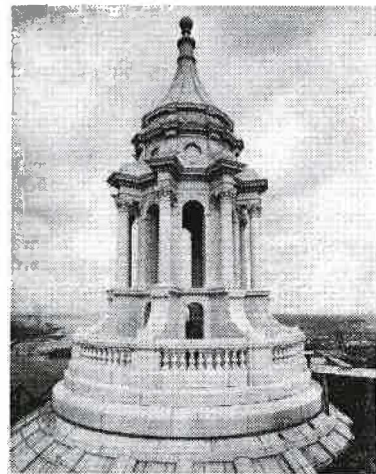


Photo: Washington State Archives

This Final Legislative Report offers a tribute to the Legislative Building. On the eve of its 75th anniversary, it enters a 2½ year renovation period. The building will be vacated for construction to modernize infrastructure, update space, repair failing structures and to correct damage from the February 28, 2001, earthquake. The building will emerge in 2004 better prepared to function as the center of state government.

The divider pages found between sections of this report feature photos of the building and notes of interest.

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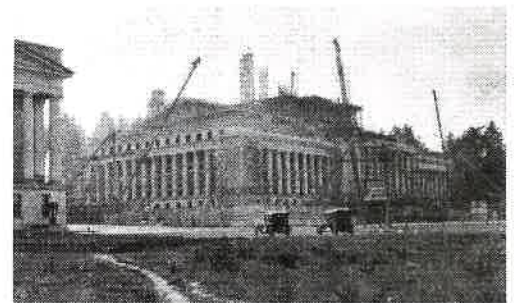


Photo: Washington State Archives

Surrounded by cranes, the Legislative Building under construction in October 1924. The first legislative session held there was in 1927. The building was completed in 1928, after five years of constant work. With the ending of the 57th Legislature, the landmark will undergo the most significant rehabilitation in its 74-year history.

Statistical Summary

2002 Regular Session of the 57th Legislature

Bills Before Legislature	Introduced	Passed Legislature	Vetoed	Partially Vetoed	Enacted
<i>2002 Regular Session (January 14 -March 14)</i>					
House	746	182	4	14	178
Senate	614	191	1	12	190
TOTALS	1,360	373	5	26	368

Initiatives, Joint Memorials, Joint Resolutions and Concurrent Resolutions Before Legislature	Introduced	Filed with the Secretary of State
<i>2002 Regular Session (January 14 -March 14)</i>		
House	22	5
Senate	25	5
TOTALS	47	10
Initiatives	3	3

Gubernatorial Appointments	Referred	Confirmed
<i>2002 Regular Session (January 14 -March 14)</i>		
	70	53



2002 FINAL LEGISLATIVE REPORT

SECTION I

LEGISLATION PASSED

NUMERICAL LIST

INITIATIVES

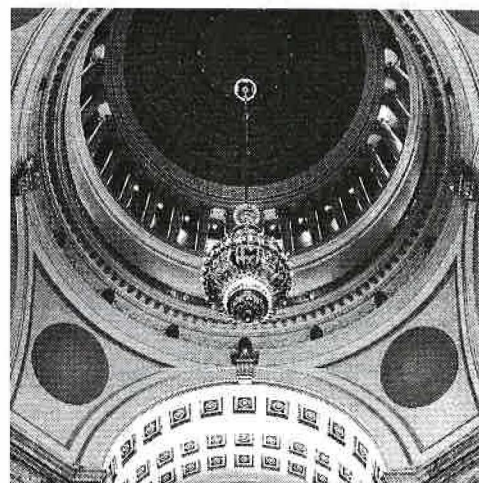
HOUSE BILL REPORTS AND VETO MESSAGES

HOUSE MEMORIALS AND RESOLUTIONS

SENATE BILL REPORTS AND VETO MESSAGES

SENATE MEMORIALS

SUNSET LEGISLATION



The 30 million pounds of brick, stone and concrete that make up the dome shifted three-quarters of an inch during the February 2001 earthquake. Damage from the earthquake accelerated legislative approval of a planned \$91 million rehabilitation project. The bulk of this project will focus on the building's infrastructure: the roof and walls are leaking; decorative stonework is eroding; utility spaces are jammed with cabling; electrical systems are overtaxed in an attempt to meet modern office needs; and modern accessibility and security standards are not being met.

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I 747
C 1 L 02

Limiting property tax increases.

By People of the State of Washington.

Background: Under the state Constitution, aggregate property tax levies are limited to 1 percent of value, or \$10 per \$1,000 of assessed value, without a vote of the people. These levies are called regular levies. Each year, the regular property tax levies of taxing districts are limited to a percentage of the districts' highest levy of the three preceding years. The percentage is the limit factor.

The limit factor is equal to the lesser of 106 percent or 100 percent plus the percentage change in the implicit price deflator. However, a different limit factor applies in two instances. For a taxing district with a population of less than 10,000, the limit factor is 106 percent. A taxing district, other than the state, may provide for the use of a limit factor of up to 106 percent for the year. In districts with legislative authorities of four members or less, two-thirds of the members must approve the change. In districts with legislative authorities of more than four members, a majority plus one vote must approve the change.

Added to this is an amount equal to the amount of revenue that new construction, improvements to property, and changes in state-assessed property would have generated at the preceding year's tax rate.

To remove the incentive to maintain a high levy, taxing districts other than the state are assumed to have levied the maximum allowed since 1986. This additional capacity is known as levy "banking" or "stockpiling." The banked amount may allow a taxing district to increase its levy by a percentage greater than 6 percent.

Any levy by a taxing district in excess of the taxing district's limit requires voter approval. If such a levy is approved, it becomes the base for calculation of future levies, unless approved for only a limited time or purpose.

Initiative 722, approved by the voters in November 2000, changed this revenue limit to the lesser of 102 percent or 100 percent plus the percentage change in the implicit price deflator. Initiative 722 also eliminated the ability to bank capacity by repealing the 1986 law which authorized taxing districts to levy at the maximum amount allowed since 1986. On September 20, 2001, the state Supreme Court in *Burien v. Kiga* invalidated I-722 on the grounds that it contained more than one subject.

Summary: The annual property tax growth limit for a taxing district of less than 10,000 in population is reduced from 6 percent to 1 percent. For all other taxing districts, including the state, annual property tax levies are reduced from inflation to the lesser of 1 percent or inflation. If inflation is less than 1 percent, then a taxing district, other than the state, may provide for the use of a limit of up to 1 percent for that year with a vote of the

legislative body of the district. In districts with legislative authorities of four members or less, two-thirds of the members must approve such increases. In districts with more than four members, a majority plus one vote is required.

Initiative 747 does not change the requirement for voter approval of any levy in excess of the taxing district's limit.

Effective: December 6, 2001

I 773
C 2 L 02

Additional tobacco taxes.

By People of the State of Washington.

Background: Prior to passage of Initiative Measure 773, Washington's cigarette tax was 82.5 cents per pack of 20 cigarettes. This tax generated about \$235 million of revenue per year, divided among four accounts as follows: 28 percent to the General Fund; 10 percent to the Water Quality Account; 13 percent to the Violence Reduction and Drug Enforcement (VRDE) Account; and 50 percent to the Health Services Account.

In addition to the cigarette tax, the state levies a tobacco products tax. Prior to passage of Initiative Measure 773, this tax was 74.9 percent of the wholesale price of such things as cigars, pipe tobacco and chewing tobacco. The revenues from this tax are divided among the General Fund, the Water Quality Account, and the Health Services Account.

When projecting the effect of a cigarette tax increase, the reduced demand for taxable cigarettes at the new higher price must be accounted for. When prices go up, consumption decreases, and the purchase of untaxed cigarettes increases. This reduces the revenue to the other accounts which are dependent upon cigarette taxes, if the revenue generated by the tax increase is dedicated to only one of them.

The Tobacco Prevention and Control Account was established in fiscal year 2000 with the first \$100 million which Washington received under the nationwide settlement of state lawsuits against the major tobacco companies. The 2001-03 budget enacted in June 2001 appropriated \$35 million from this account for implementation of a tobacco use prevention and cessation plan developed by the Department of Health. That plan includes media campaigns, community education, school-based activities, and telephone counseling and referrals.

The Basic Health Plan (BHP) provides state-subsidized health insurance coverage for persons with family incomes below 200 percent of the federal poverty level. Two-hundred percent of poverty is presently about \$17,700 per year for a single individual, and \$36,000 per year for a family of four. The BHP covers physicians

visits, hospital care, outpatient and laboratory procedures, prescription drugs, and limited mental health and substance abuse services. The BHP does not provide dental or vision care, or cover rehabilitative therapies. Persons covered by the BHP are required to make co-payments at the time of service, and to pay monthly premiums which range from \$10 to about half of their monthly premium cost, depending upon income. The state subsidizes the balance of the monthly premium cost. The 2001-03 budget enacted in June 2001 appropriated \$492 million from the Health Services Account to support BHP enrollment for an average of 125,000 persons per month.

Summary: Effective January 1, 2002, the cigarette tax is increased by 60 cents per pack, and the tobacco products tax is increased to 129.4 percent of the wholesale price. The revenues generated by these tax increases are deposited into the Health Services Account.

Revenues are transferred from the Health Services Account to other dedicated accounts as follows:

<i>Dollars In Millions</i>	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Water Quality Account	\$2.2	\$4.2	\$4.1	\$4.1	\$3.9	\$3.9
VRDE Account	\$2.2	\$4.2	\$3.9	\$3.9	\$3.5	\$3.5
Health Services Account (unrestricted)	\$9.1	\$17.2	\$15.9	\$15.9	\$14.3	\$14.3

Of the remaining revenue generated by the initiative:

- for fiscal years 2003 and 2004, \$5 million per year is to be appropriated by the Legislature for programs which improve the health of low-income persons. The Department of Health must provide recommendations to the Legislature by March 2002 on how these funds can be most effectively used to reduce disease and improve health among low-income persons.
- 10 percent per year is transferred to the Tobacco Prevention and Control Account. These transfers are currently projected to total approximately \$14.5 million per year. Beginning in fiscal year 2003, the Legislature must appropriate at least \$26.2 million from this account for implementation of the tobacco prevention and control plan.
- the balance is to be used only to increase enrollments in the Basic Health Plan, to the extent that the Legislature first funds a "base" enrollment level of 125,000 from other sources. These revenues dedicated to increased BHP enrollments are currently projected to total \$52.4 million in fiscal year 2002, and about \$111 million per year in fiscal years 2003 and 2004, and \$107 million in fiscal year 2005.

Effective: December 6, 2001

I 775
C 3 L 02

Regulating and improving long-term in-home care services.

By People of the State of Washington.

Background: Currently there are approximately 33,500 individuals in the state who receive state-funded long term care at home. People receive this home care in one of two ways: either from employees of home care agencies, or from caregivers who work as independent contractors and provide their services through the Individual Provider Program (IPP). Caregivers in the IPP program are employed by the client, but paid by the state. Before the passage of I-775, there was no employer of record for home care workers in the IPP program. There has also never been a formal system for matching people who need home care services with caregivers in the IPP program. Each community uses a referral list which is generally maintained by the local Area Agency on Aging. The Department of Social and Health Services is responsible for providing background checks on IPP workers, and withholding certain taxes.

Summary: The Home Care Quality Authority is created, a nine-member board representing constituent groups, and appointed by the Governor. The Authority serves as employer for individual providers solely for the purposes of engaging in collective bargaining. The initiative mandates that the funds needed to implement any collective bargaining agreement be included in the Governor's budget request to the Legislature.

The Authority is authorized to set qualifications standards for workers, and to oversee referral, recruitment, training, background checks, and related activities. It is directed to establish a statewide referral service of individual providers, listing only those who meet minimum standards, and eliminating those who have been found to have mistreated clients.

The Joint Legislative Audit and Review Committee is directed to conduct a review of the Authority every two years. The first report is due before December 1, 2006.

Effective: December 6, 2001

ESHB 1005

C 152 L 02

Allowing the granting of easements on state-owned aquatic lands for local public utility lines.

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

House Committee on Technology, Telecommunications & Energy

Senate Committee on Economic Development & Telecommunications

Senate Committee on Ways & Means

Background: State-owned aquatic lands are state-owned tidelands, shorelands, harbor areas, beds of navigable waters, and waterways administered by the Department of Natural Resources (DNR) or managed by a port district. This does not include aquatic lands owned in fee by, or withdrawn for the use of, state agencies other than the DNR.

Governmental entities may use state-owned aquatic lands for public utility lines at no charge as long as the use is consistent with statutory purposes for these lands and does not obstruct navigation or other uses. Public utility lines include pipes or similar structures for distribution of water, electricity, natural gas, telephone, other electronic communication, and sewers.

As the manager of state-owned aquatic lands, the DNR must strive to balance the public benefits for all citizens. Public benefits of aquatic lands include encouraging direct public use and access, fostering water-dependent uses, ensuring environmental protection, and utilizing renewable resources.

The DNR is vested with the authority to grant the use of state-owned aquatic lands upon terms and conditions and length of time that are consistent with the state constitution and state laws.

Summary: Non-governmental entities may obtain easements with the DNR over state-owned aquatic lands for local public utility lines as long as the use is consistent with statutory purposes for these lands and does not obstruct navigation and other uses. In granting these easements, the DNR is to charge the applicant based on a three-tiered schedule depending upon the length of the easement. Until July 1, 2008, specific charges are as follows: (1) \$5,000 for easements that are no longer than one mile in length, (2) \$12,500 for easements that are greater than one mile but less than five miles, and (3) \$20,000 for easements that are five miles or more in length. These charges are to be adjusted annually by the rate of yearly increase in the consumer price index (all urban consumers Seattle-Everett SMSA). The term of an easement is 30 years.

For existing easement applications and new applications, the DNR must make a final decision within 120

days of its receipt of a completed application and after all applicable regulatory permits for the aquatic easement are obtained. An applicant may request a decision in 60 days and the DNR may charge an additional fee for such expedited processing. The fee for expedited processing is the greater of 10 percent of the charge and direct administrative costs for the easement or the cost of staff overtime associated with the permit processing.

Easement applicants providing service to a residence with an individual service connection for electrical, natural gas, cable television, or telecommunications service are not required to pay the charge for the easement but must pay the DNR's direct administrative costs.

The DNR may recover reasonable direct administrative costs associated with processing and approving requests for use of state-owned aquatic lands from governmental entities and for easement applications from non-governmental entities. Direct administrative costs are defined as the cost of hours worked directly on processing the application (based on salaries and benefits), travel reimbursement, and other actual out-of-pocket costs.

Direct administrative costs recovered by the DNR are to be deposited in the Resource Management Cost Account.

These provisions do not limit the ability of the DNR to recover lost revenue resulting from the granted use of state-owned aquatic lands for public utility lines.

Votes on Final Passage:

House	98	0
Senate	41	8

Effective: June 13, 2002

SHB 1079

C 164 L 02

Specifying how state buildings are named.

By House Committee on State Government (originally sponsored by Representatives Romero, Hankins, Haigh, Miloscia, Dickerson, McDermott, Kenney and Edwards).

House Committee on State Government
Senate Committee on State & Local Government

Background: The State Capitol Committee, with the assistance of the Capitol Campus Design Advisory Committee, is responsible for fully or partially erecting permanent and temporary buildings, excavating such buildings, or making other temporary or permanent improvements on the state capitol grounds. The Department of General Administration is responsible for the proper care, heating, lighting, and repair of the buildings on the state capitol grounds. However, there are no policies or statutory provisions for naming state buildings.

ESHB 1144

The John A. Cherberg Building, the Joel Pritchard Building, and the Irv Newhouse Building were renamed by Senate Resolution and the John L. O'Brien Building was renamed by House Resolution. Other buildings have been designated according to the predominant tenant by the State Capitol Committee upon completion of construction, including the General Administration Building, the Archives and Records Center, the Employment Security Building, the Insurance Building, and the Transportation Building. Other buildings have not been officially named and are referred to by functional names, such as Office Building Two (OB-2), the Executive Mansion, the Visitor Center, and the Greenhouse (or the Conservatory). Most recently, the State Capitol Committee renamed the former Olympia Federal Building as the Dolliver Building after Justice James Dolliver.

Summary: New and existing buildings on state capitol grounds and public rooms or spaces on the West Capitol Campus may be named or renamed by the Legislature based on the recommendations of the State Capitol Committee and the director of the Department of General Administration, with advice from the Capitol Campus Design Advisory Committee.

Existing buildings may be renamed only after a substantial renovation or change in predominant tenancy. Although buildings of the state capitol group may be renamed, existing names on the facades of these buildings may not be removed.

New or existing buildings may be named or renamed after:

- (1) an individual significant in Washington history;
- (2) the purpose of the building;
- (3) the single or predominant tenant of the building;
- (4) a significant place name or a natural place in Washington;
- (5) a Native American tribe located in Washington;
- (6) a group of people or type of person; or
- (7) any other appropriate person consistent with this criteria as recommended by the director of the Department of General Administration.

An existing room or space may only be renamed after a substantial renovation. New or existing public rooms or spaces may be named or renamed after:

- (1) an individual significant in Washington history;
- (2) purpose of the room or space;
- (3) a significant place name or a natural place in Washington;
- (4) a Native American tribe located in Washington;
- (5) a group of people or type of person; or
- (6) any other appropriate person consistent with the above criteria as recommended by the director of the Department of General Administration.

In naming or renaming buildings, rooms and spaces, the State Capitol Committee must consider: (1) any disparity that exists with respect to the gender of persons after whom buildings, rooms, and spaces are named; (2)

the diversity of human achievement; and (3) the diversity of the state's citizenry and history.

Votes on Final Passage:

House	97	0	
Senate	44	5	(Senate amended)
House	96	0	(House concurred)

Effective: June 13, 2002

ESHB 1144

C 89 L 02

Modifying good cause reasons for failure to participate in the WorkFirst program.

By House Committee on Appropriations (originally sponsored by Representatives Kessler, Tokuda, Ogden, Keiser, Cody, Santos, Edmonds, Kenney, Linville, Darneille, O'Brien, Ruderman, Rockefeller, Dickerson, McDermott, Edwards, Conway, Schual-Berke, Jackley, Lovick, McIntire and Haigh).

House Committee on Children & Family Services

House Committee on Appropriations

Senate Committee on Human Services & Corrections

Background: In 1996 the federal government enacted welfare reform. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 shifted the emphasis of the federal program to a "Work First" approach. This approach is characterized by the idea that holding down a job and earning a paycheck is the best way for families to support themselves and leave poverty and government assistance behind.

In 1997 Washington enacted its version of welfare reform, the Temporary Assistance for Needy Families (TANF) program. TANF provides cash grants, employment skills training, child care and other services for eligible families. A family that includes an adult can receive TANF benefits for a maximum of 60 months during his or her lifetime.

Participants are required to participate in Workfirst activities, including job skills and work related activities. A participant must have "good cause" in failing to participate or he or she is subject to sanctions. A parent or other relative personally caring for a child under six years who requires formal or informal child care in order to participate in Workfirst has good cause to be excused if the Department of Social and Health Services (DSHS) fails to provide such care. Until June 30, 1999, if a parent had a child under the age of one year, the parent had good cause to be excused from participating for up to a total of 12 months. After June 30, 1999, a parent has good cause to be excused from participating if the parent has a child under three months of age.

Summary: A TANF recipient with a child under the age of one year is exempted from participation in Workfirst activities for up to a total of 12 months. This exemption

is available for only one time and for one child. Once the infant reaches 3 months of age, a parent exercising this exemption is required to participate for up to 20 hours per week in parenting classes, preemployment or job-readiness training, or course study leading to a high school diploma or GED. He or she may also volunteer at a licensed child care facility. A parent may choose to participate fully in the WorkFirst program.

Within available resources, the DSHS must conduct an assessment of a parent using this exemption within 90 days to identify any specific service needs or barriers to employment. The assessment may include identifying the need for substance abuse treatment, mental health treatment, or domestic violence services. Information obtained through the assessment must be used in developing the parent's individual responsibility plan.

Votes on Final Passage:

House	97	0
Senate	33	15

Effective: June 13, 2002

SHB 1166
C 210 L 02

Allowing state agencies to sponsor salmon recovery projects.

By House Committee on Natural Resources (originally sponsored by Representatives Rockefeller, Buck, Doumit, Pennington and Edwards; by request of Salmon Recovery Funding Board).

House Committee on Natural Resources
Senate Committee on Natural Resources, Parks & Shorelines

Background: The Salmon Recovery Funding Board provides funding for habitat projects in accordance with a process established by the Legislature. To obtain funding from the board, the counties, cities, and tribal governments must jointly designate a lead entity for the area from which a habitat project list will be developed. The lead entity is responsible for: (1) creating a committee to compile a list of habitat projects; (2) ranking the projects; (3) defining the sequence for project implementation; and (4) submitting the results of this effort to the lead entity as the habitat project list. The lead entity submits the habitat project list to the technical review team associated with the board so that the projects can be analyzed and ranked.

When developing the habitat project list, the committee must utilize a critical pathways methodology. As part of the critical pathways methodology, local habitat projects must be identified that sponsors are willing to undertake. Each project must have a written agreement from the landowner on which the project is to be implemented. Project sponsors are responsible, in consulta-

tion with the landowner and the technical advisory group, for identifying how the projects will be monitored and evaluated. The board is directed to give a preference to projects that will be implemented by a project sponsor with a successful record of project implementation.

A project sponsor may be one of the following: (1) county; (2) city; (3) special district tribal government; (4) a combination of such governments through an inter-local agreement; (5) nonprofit organization; or (6) one or more private citizens.

Summary: State agencies and regional fisheries enhancement groups are authorized to act as a project sponsor for purposes of obtaining salmon habitat project funding from the Salmon Recovery Funding Board. A state agency sponsored project may be funded only if it is included on the habitat project list submitted by the lead entity for the area. The state agency must also have a local partner for the project that would otherwise qualify as a project sponsor.

Votes on Final Passage:

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

Effective: June 13, 2002

SHB 1189
C 211 L 02

Enforcing protection of archaeological sites.

By House Committee on Judiciary (originally sponsored by Representatives Lantz (co-prime sponsor), Dunn (co-prime sponsor), Edmonds, Hunt, Dunshee, Ogden, Kenney and Wood; by request of Department of Community, Trade, and Economic Development).

House Committee on Judiciary
Senate Committee on State & Local Government

Background: The state's archaeological sites and resources law contains provisions for the identification, protection, inventory, excavation, and study of the state's archaeological resources. The Office of Archaeology and Historic Preservation, located within the Office of Community Development (OCD), is the agency that carries out these responsibilities.

A person or entity must obtain a permit from the director of the OCD before removing, altering, digging, or excavating archaeological objects or sites, glyptics or painted records of tribes or people, or native Indian cairns or graves. The director must obtain the consent of the private or public property owner or agency responsible for management of the land before issuing the permit. Guidelines for the issuance and processing of permits are contained in rules adopted by the OCD.

A person or entity that knowingly removes, alters, digs, excavates, damages, defaces, or destroys any his-

toric or prehistoric archaeological resource or site, or removes any archaeological object from a site, without a written permit from the director, is guilty of a misdemeanor. If the violation occurs with respect to Indian graves or cairns, glyptic or painted records of tribes or peoples, or historic graves, the violation is a class C felony. This provision does not apply to the removal of artifacts from the surface of the ground which are not historic archaeological resources or sites.

Qualified and professional archaeologists may enter on public lands for the purpose of doing archaeological resource location and evaluation studies. Scientific excavations may be carried out only upon agreement between the archaeologist or a higher education institution and the agency or political subdivision that is responsible for the public lands.

Summary: The director of the OCD may impose a civil penalty of up to \$5,000 for a violation of the provisions on archaeological sites and resources. A person who violates these provisions is subject also to reasonable investigative and site restoration costs.

A person who incurs a penalty may request an adjudicative proceeding and subsequent review under the Administrative Procedure Act. A penalty imposed by final order is due upon service of the final order. The Attorney General may bring an action to recover the penalty imposed and to enforce a requirement that all artifacts in the possession of the violator become the property of the state until proper ownership can be determined. A penalty overturned on appeal entitles the appealing party to fees and other expenses, including reasonable attorneys' fees.

When a person or entity applies for a permit, the director must give great weight to the applicant's record of previous civil or criminal violations under state or federal archaeological resources laws in determining whether to grant or condition the permit. A denial of a permit may be appealed under the provisions of the Administrative Procedure Act.

An archaeologist conducting archaeological resource location and evaluation studies on public lands must first notify the entity that is responsible for managing these lands. In addition, the results of these studies must be made known to the Office of Archaeology and Historic Preservation and are confidential unless the director of the OCD declares in writing otherwise.

Amateur societies that engage in archaeological studies on public lands are subject to conditions designed to protect the archaeological resource and ensure compliance with the law. The results of these studies must be made known to the agency and the Office of Archaeology and Historic Preservation.

References to "Washington Archaeological Research Center" are replaced with "Office of Archaeology and Historic Preservation."

Votes on Final Passage:

House 87 9
Senate 40 8

Effective: June 13, 2002

HB 1196
C 69 L 02

Modifying parking and business improvement areas.

By Representatives Gombosky, Mulliken, Dunshee and Cox.

House Committee on Trade & Economic Development
Senate Committee on State & Local Government

Background: Under state law, all counties, cities, and towns (local governments) may create parking and business improvement areas that are designed to aid general economic development and to facilitate merchant and business cooperation. A business and parking improvement area may be established by either having: (1) the owners of property located within in the geographic boundaries of the proposed business and parking improvement submit an initiation petition to the legislative authority of the local government having jurisdiction over the area; or (2) the legislative authority of the local government passes an initiation resolution to create the parking and business improvement area.

The legislative authority of the local government, after receiving a valid initiation petition from the property owners or after passage of an initiation resolution, must adopt a resolution of intention to establish a business and parking improvement area. During the public hearing process for the establishment of a parking and business improvement area, the legislative authority of the local government may change the geographic boundaries of the proposed area. The legislative authority of the local government must provide notice and give the public at least 15 days, after the proposed boundary change, for public input.

The activities in a parking and business improvement area are financed through a special assessment that is imposed on businesses, multifamily residential developments, and mixed-use developments located within the geographic boundaries of the area. The assessments can be used to finance: (1) construction, acquisition, or maintenance of parking facilities for the area; (2) decoration of public areas; (3) promotion of public events in public places in the area; (4) furnishing of music in any public place in the area; (5) provision for maintenance and security of common public areas; or (6) management, planning, and promotion of the area, including the promotion of retail trade activities in the area.

Summary: The legislative authority of a county, city, or town (local government) is authorized to modify the boundaries of an existing public and business improve-

ment area. The legislative authority of the local government must adopt the ordinance to either expand or reduce the existing boundaries after having a public hearing. The legislative authority of the local government must provide notice of the public hearing and adopt a resolution of intent to modify the boundaries of an existing parking and business improvement area at least 15 days before the public hearing.

An expansion of an existing parking and business improvement area must be into an area that is adjacent to the existing parking and business improvement area. A modification to the existing boundaries cannot: (1) occur more than once a year; and (2) include a proposed area that would generate a projected assessment role greater than 10 percent of the current assessment role for the existing parking and business improvement area. All eligible new properties that are included in the modified boundaries must be assessed according to the assessment method established by the parking and business improvement area.

Votes on Final Passage:

House	96	0
Senate	48	0

Effective: June 13, 2002

HB 1248
C 8 L 02

Providing unemployment insurance benefits for victims of domestic violence or stalking.

By Representatives Kessler, Hankins, Conway, Ballasiotes, Ogden, Cody, Woods, Edmonds, O'Brien, Keiser, Mitchell, Darneille, Santos, Kenney, Linville, Tokuda, Ruderman, Rockefeller, Hurst, Van Luven, Lovick, McIntire, Schual-Berke, Poulsen, Kagi, Wood and Haigh.

House Committee on Commerce & Labor
Senate Committee on Labor, Commerce & Financial Institutions

Background: Under the Federal Unemployment Tax Act (FUTA) and state unemployment compensation law, an individual may receive benefits so long as he or she meets certain initial and continuing eligibility requirements. Initial eligibility requirements include the conditions of the individual's separation from employment. If the individual's separation was voluntary, the individual is disqualified for receiving benefits. However, an individual who leaves work for "good cause" may collect benefits so long as he or she meets other eligibility requirements. Continuing eligibility requirements include being able and available for work, actively searching for a new job, and not refusing an offer of suitable work. An individual who has received five or more

weeks of benefits must provide evidence of seeking work.

Unemployment insurance laws in some other states explicitly permit an individual who leaves work for certain domestic circumstances to receive benefits. These laws provide that an individual who separates from employment for specified domestic circumstances either has quit for "good cause" or is "not disqualified" for benefits. These laws do not modify other initial and continuing eligibility requirements.

Summary: Initial and continuing eligibility requirements for unemployment benefits are modified for an individual whose separation from employment was necessary to protect the individual or his or her immediate family members from domestic violence or stalking. In these circumstances:

- an individual is considered to have left work for "good cause;"
- the evaluation of the suitability of work must consider the individual's need to address physical, psychological, legal, and other effects of domestic violence or stalking; and
- the individual is not required to provide evidence of seeking work for each week beyond the fifth week in which a claim for benefits is filed.

Benefits paid to the individual are not charged to the employer's experience rating account.

Votes on Final Passage:

House	88	10
Senate	40	8

Effective: June 13, 2002

SHB 1268
PARTIAL VETO
C 354 L 02

Enacting the personnel system reform act of 2002.

By House Committee on State Government (originally sponsored by Representatives Romero, Campbell, Conway, Kenney, Kessler, Hurst, Keiser, Simpson, Ogden, Lovick, McIntire, Ruderman, O'Brien, Schual-Berke, Poulsen, Kagi, Cody, Edmonds, Wood and Haigh; by request of Governor Locke).

House Committee on State Government
House Committee on Appropriations
Senate Committee on Labor, Commerce & Financial Institutions
Senate Committee on Ways & Means

Background: I. Civil Service: The Washington Personnel Resources Board (WPRB) is responsible for adopting civil service rules regarding:

- classification of all state positions;
- exams;

- certification of names for vacancies using the seven people that have the highest score on the eligibility list (the "Rule of 7");
- suspensions, demotions, dismissals, transfers, hours of work, sick leave, vacation; and
- layoff criteria (layoffs must be by seniority).

Employees of institutions of higher education may "opt out" of the civil service rules and instead have their employment governed exclusively by a collective bargaining agreement.

The Department of Personnel (DOP) is responsible for administering the civil service system. The DOP must conduct periodic salary and fringe benefit surveys. The surveys are subject to certain deadlines and the DOP must furnish specific supporting documents along with the surveys. The Washington Management Service (WMS) is governed under the DOP rules separate from the rules governing other classified employees.

The Personnel Appeals Board (PAB) has jurisdiction to decide appeals in most personnel actions, including dismissals, demotions, allocation of positions, and violations of civil service rules.

II. Contracting Out: Because of a 1978 decision of the Washington Supreme Court, agencies and institutions of higher education may not contract out for services regularly and historically provided by classified state employees. The Legislature responded the year after the decision by clarifying that agencies and institutions of higher education may purchase services by contract if the services were regularly purchased by contract prior to 1979. However, a contract may not be executed or renewed if it would have the effect of terminating classified state employees.

III. Collective Bargaining: Collective bargaining for classified state employees is governed by the WPRB rules and administered by the DOP. Classified state employees have the right to bargain over grievance procedures and over personnel matters over which the agency or institution may lawfully exercise discretion. Agencies and institutions of higher education may not exercise discretion over subjects covered by statute or by the WPRB rules, including recruitment, hiring, discipline, sick leave, vacations, and wages.

Bargaining units are determined by the WPRB rules. Supervisors and non-supervisors may be in the same unit. The WPRB conducts elections and certifies exclusive bargaining representatives.

Bargaining units bargain with their employing agency or institution of higher education. The civil service law does not grant classified state employees the right to strike. The DOP mediates disputes and the WPRB conducts impasse arbitration. Employees in a bargaining unit may be required to pay periodic dues if a majority of the employees in the bargaining unit vote for union security.

Summary: I. Civil Service: Effective July 1, 2004, the authority to adopt civil service rules, including rules pertaining to job classifications and layoff criteria, are transferred from the WPRB to the DOP. Certain rules, including rules pertaining to discipline, leave, and hours of work, may be superseded by collective bargaining agreements. The "Rule of 7" and layoffs by seniority are no longer required. Institutions of higher education may locally administer the rules adopted by the DOP.

The WPRB must review the current classification system and adopt new classifications by March 15, 2004. The DOP must begin to implement the new classification system by January 1, 2005. Employees of institutions of higher education may not "opt out" of the civil service rules after July 1, 2003, and the "opt out" provisions are repealed July 1, 2005.

The specific requirements for salary and fringe benefit surveys are removed. However, the DOP must still conduct the surveys. On July 1, 2006, the PAB is abolished, and its powers, duties, and functions are transferred to the WPRB. Personnel appeals filed after June 30, 2005, must be to the WPRB.

II. Contracting Out: A state agency or institution of higher education may contract out for services, including services traditionally and historically provided by state employees, if the following are met:

- The contract contains performance measures.
- Classified employees are allowed to provide alternative solutions to purchasing the services by contract, and, in the event those solutions are not approved, bid for the contract using competitive bidding procedures.
- The contract contains provisions requiring the contracting entity to consider employing displaced classified employees.
- The agency or institution has established contract monitoring and termination procedures.
- The agency or institution has demonstrated that the contract would lead to savings or efficiencies, taking into account the possibility of improper performance.

The following competitive bidding procedures are specified:

- The agency or institution must inform the affected classified employees 90 days prior to sending out bids for contracts; the employees then have 60 days to offer alternatives to purchasing the services by contract.
- Employees must inform the agency or institution if they intend to submit a bid.
- The DOP and the Department of General Administration (GA) must provide training in the bidding process and in bid preparation.
- The GA must establish procedures to ensure that bids are submitted and evaluated fairly, and that there exists a competitive market for the service.

- The employees' bid must contain the full cost of providing the service.
- The agency or institution may contract with the GA to perform the bidding process.

If employees decide to compete for the contract, they must form an employee business unit to submit the bid. An employee business unit is defined as a group of employees who performs services to be contracted, and who submits a competitive bid for the performance of those services.

Contracts that were authorized by law prior to the effective date of the act, including contracts and agreements between public entities, and contracts expressly mandated by the Legislature are not subject to the new criteria and requirements for contracting out. The Joint Legislative Audit and Review Committee must conduct a performance audit to evaluate the effectiveness of contracting out by January 1, 2007.

III. Collective Bargaining: Effective July 1, 2004, collective bargaining will be administered by the Public Employment Relations Commission (PERC). The PERC must determine representation issues, determine appropriate bargaining units, administer elections for exclusive bargaining representatives, process and adjudicate disputes that arise from the elections or unfair labor practices, and certify exclusive bargaining representatives. For purposes of negotiating collective bargaining agreements, the agency employer is represented by the Governor, except for institutions of higher education, which may be represented by either their governing boards or the Governor. Existing bargaining units and exclusive bargaining representatives are "grandfathered." Members of the WMS may not be included in a collective bargaining unit.

If an exclusive bargaining representative represents more than one bargaining unit, it must negotiate one master collective bargaining agreement covering all of the bargaining units it represents. Except for higher education employees, exclusive bargaining representatives representing fewer than 500 employees must bargain in one coalition. The coalition must bargain for a master collective bargaining agreement covering all employees represented. If the parties fail to reach an agreement during negotiations, either party may initiate mediation. If no agreement is reached within 100 days of the expiration of the previous agreement, the PERC must appoint an independent fact-finder.

When negotiating collective bargaining agreements, the Governor must consult with the new Joint Select Committee on Employee Relations. Collective bargaining agreements may not exceed one fiscal biennium, must be submitted to the Office of Financial Management by October 1, and must be submitted to the Legislature as part of the Governor's budget proposal. The Legislature must accept or reject the request for funds necessary to implement the agreements as a whole. If a

significant revenue shortfall occurs, as declared by either the Governor or the Legislature, modifications to the agreements must be negotiated. The terms of an expired collective bargaining agreement remain in effect until a new agreement is negotiated, not to exceed one year. After one year, the employer may unilaterally implement according to law.

The matters subject to bargaining include wages, hours, and terms and conditions of employment. Employers are not required to, but may, bargain over health care benefits or other employee insurance benefits, any retirement system or retirement benefits, and certain civil service rules regarding examinations, appointments, job classifications and affirmative action. The parties are prohibited from bargaining over management rights, which include, but are not limited to, powers and duties established by statute or the state constitution, the functions and programs of the employer, the use of technology, the structure of the organization, the employer's budget, the size of the agency work force, the right to direct and supervise employees, and retirement plans and benefits. Bargaining over health care dollar amounts must be conducted in one statewide coalition. Except for institutions of higher education, this is also true for the number of names to be certified for vacancies and promotional preferences.

A provision of a collective bargaining agreement that conflicts with a statute is invalid and unenforceable. However, if a provision of a collective bargaining agreement conflicts with an executive order, administrative rule or agency policy relating to wages, hours and terms, and conditions of employment, the collective bargaining agreement prevails. Collective bargaining that affects the state's right to contract out for services is not prohibited. The right to strike is not granted.

Collective bargaining agreements may contain a union security provision requiring employees to pay agency shop fees as a condition of employment. Employees who assert the right of non-association based on religious beliefs may pay the fee to the employee organization for a program within the organization that is in harmony with the employee's conscience.

Votes on Final Passage:

House	54	43	
Senate	29	19	(Senate amended)
House	56	40	(House concurred)

Effective: June 13, 2002

July 1, 2004 (Sections 203, 204, 213-223, 227, 229-231, 241, 243, 246, 248, 301-307, 309-316, 318, 319, 402)

March 15, 2005 (Section 224)

July 1, 2005 (Sections 208, 234-238, 403)

July 1, 2006 (Sections 225, 226, 233, 404)

Partial Veto Summary: The Governor vetoed a provision of law that was repealed in another bill.

VETO MESSAGE ON HB 1268-S

April 3, 2002

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 237, Substitute House Bill No. 1268 entitled:

“AN ACT Relating to personnel;”

Substitute House Bill No. 1268 is an historic civil service reform act. I strongly support this act, and herald its passage into law.

Section 237 of this bill would have amended RCW 47.46.040 by changing an internal reference in subsection 1 of that statute. However, section 16 of Engrossed House Bill No. 2723, which I signed into law on March 22, 2002, repeals RCW 47.46.040(1) in its entirety. If section 237 of this bill were to become law, it would create a confusing double amendment that could not be corrected by the Code Reviser.

For these reasons, I have vetoed section 237 of Substitute House Bill No. 1268.

With the exception of section 237, Substitute House Bill No. 1268 is approved.

Respectfully submitted,

Gary Locke
Governor

SHB 1395
C 212 L 02

Encouraging retention and enhancement of the job base in rural counties.

By House Committee on Local Government & Housing (originally sponsored by Representatives Eickmeyer, Beck, Sump, Doumit, Kessler, Jackley, Van Luven, Hough, Dunn, Murray, Edwards, Veloria, Romero, Hatfield, Pennington, Hunt, Ruderman, Linville, O'Brien, Conway and Santos).

House Committee on Local Government & Housing
Senate Committee on Economic Development & Telecommunications

Background: The Growth Management Act (GMA) requires a county and its cities to plan under the GMA's major requirements if the county meets certain population and growth criteria. The GMA allows counties not meeting those criteria to choose to plan. Currently, 29 of 39 Washington counties plan under the major GMA requirements (GMA jurisdictions).

The GMA requires GMA jurisdictions to adopt comprehensive plans with certain required elements. Those elements include land use, housing, a capital facilities plan, utilities, transportation, and a rural element.

The GMA comprehensive plan's rural element is to include lands that are not designated for urban growth, agriculture, forest, or mining resources. Legislation

enacted in 1997 made numerous changes to rural element provisions including: (1) defining rural character to focus on predominance of natural landscape, fostering of traditional rural lifestyles, provision of rural landscapes, and compatibility with habitat and prevention of sprawl; (2) defining rural development to include a variety of uses and densities, other than agriculture and forestry, that are consistent with rural character; (3) amending the definition of urban growth to provide that a pattern of more intensive rural development is not urban growth; (4) including small-scale businesses (not defined) in rural development and describing small-scale businesses and cottage industries as those not required to serve the rural population; (5) adding rural development provisions, including allowing infill, development, or redevelopment of existing commercial, industrial, residential, or mixed-use areas, subject to the requirement to minimize and contain the existing areas so as not to extend beyond their logical outer boundaries; and (6) adding intensification provisions for rural nonresidential uses or new development of isolated cottage industries and small scale businesses not principally designed to serve the rural population but that provide job opportunities for rural residents.

Summary: Rural counties that are GMA jurisdictions may allow the expansion of small-scale businesses and the siting of new small-scale businesses on existing business sites if these businesses are compatible in size and scale with land use and development patterns in the rural element of the comprehensive plan.

Votes on Final Passage:

House 97 0
Senate 46 0

Effective: June 13, 2002

SHB 1397
C 144 L 02

Encouraging support services for kinship caregivers.

By House Committee on Children & Family Services (originally sponsored by Representatives Tokuda, Boldt, Kagi, Benson, Kenney, Cody, Schual-Berke and Santos).

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

Background: Children who need out of home placement because of abuse, abandonment or neglect may be placed with relatives. This placement may be through a formal process such as dependency or a voluntary agreement, or it may be through an informal arrangement within the family.

Relatives may choose to be licensed as foster homes. If the relative's home is licensed, the child's care is paid for through foster care funding, the child is eligible for Medicaid, and support services are available. Foster care

rates vary with the age of the child; the rate for a child from birth up to age six is \$366 per month, per child in placement.

If the relative's home is not licensed, the child's care is paid for through Temporary Assistance for Needy Families (TANF) grants, Medicaid coverage is provided and, if the child was placed through a dependency action, support services are available. The TANF grant for the first child, of any age, is \$349 per month. The grant is increased for each subsequent child placed by an increment of at least \$91 per child, per month.

Summary: The Legislature recognizes the value of placing children, who are at risk of foster care placement, with relatives.

The DSHS is required, within existing resources, to convene a workgroup on kinship caregivers. The membership of the workgroup is described. The duties of the workgroup are to:

- review the Washington State Institute for Public Policy kinship caregivers study which is due in June 2002;
- develop a briefing for the Legislature that identifies the policy issues related to kinship caregivers, the federal and state statutes associated with these issues, and options to address the issues; and
- submit the briefing to the Children and Family Services Committee of the House of Representatives by November 1, 2002.

Votes on Final Passage:

House	97	0	
Senate	45	0	(Senate amended)
House	94	0	(House concurred)

Effective: June 13, 2002

ESHB 1411

C 288 L 02

Providing public notice of releases of hazardous substances.

By House Committee on Agriculture & Ecology (originally sponsored by Representatives Voloria, Pennington, Cody, Campbell, Romero, Kenney, Keiser, Schual-Berke, Santos, Dunn, Linville, Boldt, Tokuda, Kagi, Cooper, McIntire and Rockefeller).

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

Background: The owners and operators of a facility, or a site where hazardous substances are located, are responsible for reporting spills or other releases of hazardous substances to federal and state authorities. The time limits set for reporting vary depending on the type of facility and the type of release.

In Washington, there are five acts that require the reporting of a release. They are the Oil and Hazardous

Substance Spill Prevention and Response Act, Hazardous Waste Management Act, Water Pollution Control Act, Underground Storage Tank Act, and the Model Toxics Control Act (MTCA). These acts require reporting either immediately, within 24 hours, or within 90 days, depending on the circumstances of the release.

Owners and operators of a facility must report immediately to the Department of Ecology (DOE) any releases into the state's waters, wells, or drinking water supplies. Immediate notification is also required for new discharges of hazardous substances into the environment, and for spills or overfills of regulated substances from underground storage tanks (UST) that come in contact with soil, groundwater, or surface water in an amount which is more than de minimis.

An owner or operator of a facility must report a release within 24 hours if a UST leak is discovered. Notification within 24 hours is also required if a UST spills or is overfilled and the hazardous substance does not come in contact with soils or water.

The MTCA requires an owner or operator to report to the DOE a known release of a substance that may be a threat to human health within 90 days of discovery. This requirement includes the reporting of any newly discovered historic releases that occurred as a result of past business practices.

There are currently no federal or state regulations requiring direct notice of a release to landowners adjacent to or in close proximity to a facility.

Summary: Any owner or operator of a facility that is transitioning from federal oversight to oversight by the state, who has information concerning the release of a hazardous substance at the facility, is required to issue a notice to the Department of Ecology. This notice must be issued within 90 days and it must describe the remedial actions that are being taken or that are planned.

The notice must be posted in a visible and publicly assessable location in the facility until remedial actions are complete. The department must mail notice to: (1) each residence and landowner within 300 feet of the facility or the area where the release occurred; (2) each business whose property is within 300 feet from the facility; (3) each residence landowner and business within the area where the hazardous substance came to be located as a result of the release; (4) any neighborhood associations or community organizations recognized by the local city that represent an area within one mile of the facility; (5) the appropriate city, county, and local health district; and (6) the Department of Health.

The notice produced by the facility must include the common name and chemical abstract service registry number of the substance released, the date the release was discovered, the cause and date of the release, and the potential health and environmental effects of the release. The notice must also be translated if a significant

segment of the effected community speaks a language other than English.

Certain releases are exempt from public notification. These include: (1) the application of pesticides in accordance with the label requirements; (2) the lawful and non-negligent use of a household product for domestic purposes; (3) the discharge of a hazardous substance in compliance with existing environmental laws and permits; (4) de minimis ground releases; (5) any releases originating from a residence, including discharge from a heating oil tank; (6) any spill on a public road or onto surface waters of the state that have been reported to the U.S. Coast Guard or the state Division of Emergency Management; (7) any release to the air; (8) releases that are part of a remedial action under the Model Toxics Control Act; and (9) releases on agriculture land.

Costs incurred by the department for issuing the notice are to be reimbursed by the facility where the release occurred. The Attorney General may seek a civil penalty up to \$5,000 per day for violations of the notice requirement.

Votes on Final Passage:

House	98	0	
Senate	48	0	(Senate amended)
House	93	0	(House concurred)

Effective: June 13, 2002

January 1, 2003 (Sections 2-4)

SHB 1444
PARTIAL VETO
C 207 L 02

Requiring school districts to adopt policies prohibiting harassment, intimidation, and bullying.

By House Committee on Appropriations (originally sponsored by Representatives Murray (co-prime sponsor), Ballasiotes (co-prime sponsor), Mitchell, Quall, Dickerson, Haigh, McIntire, Linville, Simpson, Reardon, Kenney, Hunt, Fisher, Conway, Hurst, Tokuda, Fromhold, Poulsen, Santos, Romero, Rockefeller, Dunshee, Gombosky, Darneille, Edwards, Skinner, O'Brien, Lantz, Wood, Miloscia, Grant, Kessler, Kirby, Jackley, Kagi, Keiser, Sommers, Ogden, Cody, Edmonds, Morris, Lovick, McDermott, Woods, Jarrett, Mastin, Cooper, Schual-Berke and Ruderman; by request of Governor Locke, Attorney General and Superintendent of Public Instruction).

House Committee on Education
Senate Committee on Education

Background: Compulsory course work in the common school curriculum includes cultivating the importance of manners. Instruction in temperance and good citizenship also is required once each year. Other related programs

may include conflict-resolution training and violence-prevention training.

No laws specifically address harassment, intimidation, or bullying by students in the school setting. However, certain criminal laws may be applicable on a limited basis.

Criminal harassment means: (1) threatening to cause bodily injury or physical damage to property, or to subject someone to physical confinement or restraint, or to maliciously do anything intended to substantially harm a person's physical or mental health and safety; and (2) creating a reasonable fear (by words or conduct) that the threat will be carried out immediately or in the future.

Criminal malicious harassment means maliciously and intentionally committing the crime of harassment because of the victim's race, color, religion, ancestry, national origin, gender, sexual orientation, or mental, physical, or sensory handicap.

These criminal laws may apply to children of limited ages. A child 12 years old and older is presumed to be capable of committing a crime. A child between 8 and 12 years old is presumed to be incapable of committing a crime, but the presumption may be overcome by evidence. A child under 8 years old is incapable of committing a crime. The decision regarding whether to prosecute for these crimes rests solely within the prosecutor's office.

Summary: Each school district must adopt or amend a policy prohibiting harassment, intimidation, or bullying by August 1, 2003. School districts have local control over each policy so long as it prohibits harassment, intimidation, or bullying of any student. School districts are responsible for sharing this policy with parents or guardians, students, volunteers, and school employees.

Harassment, intimidation, or bullying are defined collectively as any intentional written, verbal, or physical act that is shown as being motivated by the person's race, color, religion, ancestry, national origin, gender, sexual orientation, or mental, physical, or sensory handicap, or by other distinguishing characteristics. Students are not required to actually possess a characteristic that is the basis for the harassment, intimidation, or bullying.

To be harassment, intimidation, or bullying, the intentional written, verbal, or physical acts must:

- physically harm a student or damage the student's property;
- have the effect of substantially interfering with a student's education;
- be so severe, persistent, or pervasive that it creates an intimidating or threatening educational environment; or
- have the effect of substantially disrupting the orderly operation of the school.

The Office of the Superintendent of Public Instruction (OSPI) must develop and provide to school districts a model policy and training materials by August 1, 2002.

The model policy should be developed in consultation with representatives of parents, school personnel, and other interested parties.

Additionally, the OSPI is required to disseminate training materials in a variety of ways. The OSPI's website must have a link to the Safety Center web page, where the OSPI must post training and instructional materials as well as their model policy on harassment, intimidation, or bullying. School districts must have direct access to the Safety Center website where districts can post summaries of their policies, programs, partnerships, vendors, and instructional and training materials, and a link to each school district's website. To the extent that resources are available, the OSPI is given the authority to update its existing technology.

Each school district is required to report to the OSPI all incidents of harassment, intimidation, or bullying that result in disciplinary action. School districts must start reporting beginning with the 2002-03 school year and must continue to report by January 31 of each year. The OSPI must compile this information and report it to the Legislature.

Any reprisals, retaliations or false accusations against a victim, witness, or person with reliable information about an act of harassment, intimidation, or bullying are prohibited. Employees, students, and volunteers with reliable information about an incident are encouraged to report the incident to an appropriate school official. Employees, students, and volunteers who report violations in compliance with policy procedures are immune from liability for damages for failure to remedy an incident.

Votes on Final Passage:

House	81	16	
Senate	41	6	(Senate amended)
House	86	8	(House concurred)

Effective: June 13, 2002

Partial Veto Summary: The Governor vetoed the requirement that school districts report to the OSPI on all incidents of harassment, intimidation, or bullying that resulted in disciplinary action and the requirement that the OSPI compile and report to the Legislature on all incidents of harassment, intimidation, or bullying that resulted in disciplinary action.

VETO MESSAGE ON HB 1444-S

March 27, 2002

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. 1444 entitled:

“AN ACT Relating to preventing harassment, intimidation, or bullying in schools;”

Substitute House Bill No. 1444 requires each school district to adopt a policy prohibiting harassment, intimidation, or bullying of any student. Our schools should be safe places, conducive to

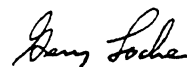
learning, where all students can learn without fear. I strongly support this bill, which will help ensure that parents, teachers and students take bullying seriously.

Section 3 of the bill would have required each school district to report all incidents resulting in disciplinary action involving harassment, intimidation, or bullying. 'Incident' and 'disciplinary action' are not defined terms. If every counseling session, intervention, detention or parent conference that resulted from a bullying incident were required to be reported, the burden would be overwhelming, and could serve as a disincentive for educators to take action except in the most egregious cases.

For these reasons, I have vetoed section 3 of Substitute House Bill No. 1444.

With the exception of section 3, Substitute House Bill No. 1444 is approved.

Respectfully submitted,



Gary Locke
Governor

HB 1460
C 328 L 02

Enforcing seat belt laws as a primary action.

By Representatives Lovick, Jarrett, Hurst, Jackley, Cooper, Fisher, Edmonds, Morell, Ahern, Ogden, Simpson, O'Brien, Darneille, Kagi and Ruderman.

House Committee on Transportation
Senate Committee on Transportation

Background: Except for those vehicle restraint laws specific to children six years of age and under, Washington's seat belt laws are a secondary action, meaning that an infraction may only be written after the officer stops the vehicle for another suspected traffic infraction, a violation of an equivalent local ordinance, or some other offense. Safety belt use laws are the only laws in America that make a distinction between primary (also known as "standard enforcement") and secondary enforcement.

Seventeen states, including California and Oregon, and British Columbia, have primary enforcement of seat belt laws. Studies show that seat belt usage rates in those states average 17 percent higher than states with secondary enforcement laws.

Studies also show that wearing seat belts saves lives and reduces the severity of injuries in a crash. The economic benefit of a primary enforcement law in Washington, as estimated by the National Traffic Safety Administration, is more than \$60 million per year.

Summary: The requirement for wearing a seat belt is enforced as a primary action.

Votes on Final Passage:

House	54	44
Senate	26	22

2SHB 1477

Effective: June 13, 2002
July 1, 2002 (Section 2)

2SHB 1477 C 176 L 02

Allowing counties to impose taxes for emergency communication systems.

By House Committee on Finance (originally sponsored by Representatives Dunshee, Mulliken, Lantz, Rockefeller, G. Chandler, Cooper and McIntire).

House Committee on Local Government & Housing
House Committee on Finance
Senate Committee on Ways & Means

Background: The state sales and use tax is set at 6.5 percent. The sales tax is imposed on each retail sale of most articles of tangible personal property and certain services and is applied to the selling price of the article or service. The use tax is imposed on the use of articles of tangible personal property when the sale or acquisition has not been subject to the sales tax.

Cities and counties may impose additional general and specific sales and use taxes, some of which are subject to referendum vote and some of which count against the state portion and do not count as an additional tax. The total state and local sales and use tax rate imposed is between 7 and 8.6 percent, depending on location. Total authorized rates are 8.3 percent in most counties. In some counties, however, it may be as high as 9.3 percent.

There are also state and local taxes on telephone lines for emergency 911 telephone services. Emergency 911 telephone services allow callers to reach agencies that can dispatch an appropriate type of response. Enhanced 911 (E-911) allows the person answering the call to identify the location of the calling party. In Washington, 911 systems are primarily administered by counties, and in some cases, cities.

Counties may impose up to 50 cents per month tax on each wired telephone line to help fund 911 systems; counties may also impose up to a 25 cent per month tax on each cellular phone line for the same purpose. In addition, a state E-911 tax of up to 20 cents per month on each wired telephone line is imposed to pay for implementation of E-911 throughout the state. These taxes are used only for E-911 equipment and do not fund dispatch systems.

Summary: Counties are authorized to impose an additional 0.1 percent tax for the financing, design, acquisition, construction, equipping, operating, maintaining, remodeling, repairing, reequipping, and improvement of emergency communication systems and facilities. The additional tax is subject to voter approval.

Counties are also authorized to develop joint ventures to collocate emergency communication systems and facilities.

Prior to submitting the tax authorization for the additional sales tax for emergency communication systems, a county and any city that contracts with that county for the emergency communication system are required to review the contract and either affirm the existing contract or negotiate a new contract.

Also, a county with over 500,000 population that operates an emergency communication system is required to enter into an interlocal agreement with any city over 50,000 in the county to determine revenue distribution of the new tax.

Votes on Final Passage:

House	95	2
Senate	43	3

Effective: June 13, 2002

HB 1512 C 70 L 02

Including computer images in the definition of "visual or printed matter."

By Representatives Sommers, Ballasiotes, O'Brien, Kagi, Lambert, Dickerson, Lisk, Lovick, Hurst, Delvin, Hankins, Keiser and Dunn.

House Committee on Criminal Justice & Corrections
Senate Committee on Judiciary

Background: It is illegal to: (1) sexually exploit a minor for child pornography; (2) disseminate or otherwise deal in depictions of minors engaged in sexually explicit conduct; or (3) possess visual or printed matter depicting a minor engaged in sexually explicit conduct.

The term "visual or printed matter" is defined in statute as any photograph or other material that contains a reproduction of a photograph. "Photograph" is defined as "any tangible item produced by photographing."

In a 1999 case, the Washington Court of Appeals, Division I, held that the crime of possessing child pornography includes possessing digital computer images of child pornography. The defendant in that case argued that the statute only applies to tangible items and does not apply to digitized information stored on a computer hard drive. The court rejected that argument, reasoning that the computerized images originated as photographs and, therefore, fall within the meaning of the statute.

A person who, in the course of processing or developing visual or printed matter either privately or commercially, has reasonable cause to believe that the visual or printed matter depicts a minor engaged in sexually explicit conduct, must immediately report the incident, or cause a report to be made, to law enforcement. Failing to do so is a gross misdemeanor.

Summary: The term "photograph" in the child pornography statutes is expanded to include digital images and both tangible and intangible items.

If, in the course of repairing, modifying, or maintaining a computer that has been submitted either privately or commercially for repair, modification, or maintenance, a person has reasonable cause to believe that the computer stores visual or printed matter that depicts a minor engaged in sexually explicit conduct, the person may report the incident, or cause a report to be made, to law enforcement.

A person making a report in good faith, either during the repair or maintenance of a computer or during the processing or developing of visual or printed matter, is immune from civil liability resulting from the report.

Votes on Final Passage:

House	97	0
Senate	44	0

Effective: June 13, 2002

SHB 1521

C 177 L 02

Authorizing the state treasurer to distribute interest from the local leasehold excise tax account.

By House Committee on Local Government & Housing (originally sponsored by Representatives Simpson, Mulliken, Dunshee, Mielke and Haigh).

House Committee on Local Government & Housing
Senate Committee on State & Local Government

Background: Property owned by federal, state, or local government is exempt from the property tax. Private lessees of government property, however, 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 that is similar to the property tax that they would pay if they owned the property. The leasehold excise tax rate of 12.84 percent is imposed on the amount paid in rent for the public property.

The tax is collected by the Department of Revenue and is distributed to the counties and cities by the state treasurer on a bimonthly basis; i.e., every two months. Interest earnings accrued are not distributed with the principle, but accumulate in the local leasehold excise tax account. The interest earnings currently accumulated in the account total approximately \$1 million.

Summary: The Local Leasehold Excise Tax Act is amended to direct the state treasurer to make one lump sum distribution of all interest earnings accrued before July 31, 2002, to the counties and cities proportionate to the amount of tax collected annually on behalf of each county and city. In addition, the state treasurer is directed to distribute all interest earnings accrued after

July 31, 2002, bimonthly to the counties and cities proportionate to the amount collected on behalf of each county and city.

Votes on Final Passage:

House	95	0
Senate	48	0

Effective: June 13, 2002

2SHB 1531

PARTIAL VETO

C 178 L 02

Modifying the taxation of lodging.

By House Committee on Finance (originally sponsored by Representatives Morris and Cairnes).

House Committee on Finance
Senate Committee on Ways & Means

Background: State and local sales taxes apply to lodging rentals by hotels, motels, rooming houses, private campgrounds, RV parks, and similar facilities. Hotel-motel taxes are special sales taxes on lodging rentals.

Lodging rentals are subject to sales and hotel-motel taxes when the period of occupancy is less than 30 days. When the period of occupancy is 30 days or more, the transaction is considered a rental or lease of real property and is exempt from tax.

Summary: The furnishing of lodging and all other services for a continuous period of one month or more constitutes a rental or lease of real property, and is exempt from tax. Continuous occupancy of a specific lodging unit by the same person is no longer required.

A city located in more than one county may impose a hotel-motel tax at the maximum rate allowed on March 11, 1998.

Votes on Final Passage:

House	94	0	
Senate	41	7	(Senate amended)
House	96	2	(House concurred)

Effective: March 27, 2002

Partial Veto Summary: The Governor vetoed the section that allowed a city located in more than one county to impose a hotel-motel tax at the maximum rate allowed on March 11, 1998.

VETO MESSAGE ON HB 1531-S2

March 27, 2002

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. 1531 entitled:

"AN ACT Relating to the taxation of lodging;"

Second Substitute House Bill No. 1531 makes the application of the sales tax to extended lodging more flexible, and allows it

to more easily accommodate real world business practices and needs.

Section 3 of the bill was intended to allow a municipality located in more than one county to impose the special local lodging tax in each county at the maximum rate. However, due to a drafting error, it had no effect. In addition, other statutes would need to be changed in order to achieve the intent of section 3.

I am directing the Department of Revenue to work with the concerned parties to perfect language for legislation that can be introduced by those parties at the next legislative session.

For these reasons, I have vetoed section 3 of Second Substitute House Bill No. 1531.

With the exception of section 3, Second Substitute House Bill No. 1531 is approved.

Respectfully submitted,

Gary Locke
Governor

2SHB 1646

C 291 L 02

Including the Washington national guard youth challenge program as an alternative educational service provider.

By House Committee on Education (originally sponsored by Representatives Schmidt, Haigh, Talcott, Keiser, Cox, Schual-Berke, Anderson, Pearson, Quall, Santos, Rockefeller, McDermott, Schindler, Conway, Bush, Dunn and Campbell).

House Committee on Education

Background: By law, school districts are permitted to contract with outside organizations to provide classes and other educational services for eligible students. Eligible students include students who are likely to be expelled or present disciplinary problems or who are academically at-risk. The outside organizations are called alternative education service providers. They include schools, alternative programs operated by organizations other than the school districts, education centers, skills centers, dropout prevention programs, and other public and private organizations offering educational programs for these students.

For at-risk students, the school district and the service provider must specify the specific learning standards that the students are expected to achieve. In addition, the placement of the student in the provider's alternative program must be jointly determined by the school district, the student's parent or legal guardian, and the alternative education service provider. School districts may require students who would otherwise be expelled or suspended to attend a program offered by an alternative education service provider.

The Office of the Superintendent of Public Instruction (OSPI) adopts rules for the reporting and documentation of student enrollment in these programs.

The National Guard Youth ChalleNge Program is a national program that seeks to provide educational assistance, structure, and mentoring to young people who have dropped out of school. Entering students must not have been convicted of a felony and must be drug free. The program has a 22-week residential component and a year-long post-residential mentoring phase. During the residential phase, students live in dormitories and take classes that will enable them to obtain a high school diploma or GED. The residential phase is very structured and includes activities similar to basic military training. The goal of the program is to have the students who leave it return to full-time work or school, including post-secondary education. Sixty percent of the cost of the program is borne by the federal government. Washington does not participate in the National Guard Youth ChalleNge Program, but the state is in line to receive a federal grant if the Washington National Guard is able to sponsor a program.

Summary: The Washington National Guard Youth ChalleNge Program is added to the list of alternative education service providers. Funding for the program will be allocated directly to the Washington Military Department based on statewide average rates for basic education, special education, and categorical and block grant programs. The formula based on one full-time equivalent student for each 100 hours of credit generating instruction each month. The OSPI, in consultation with the Military Department, must adopt rules for the funding formula. The State Board of Education will adopt rules on the acceptance of high school credits gained through the program.

Votes on Final Passage:

House	72	26
Senate	48	0

Effective: June 13, 2002

SHB 1741

C 71 L 02

Providing a plan of health insurance for blind vendors.

By House Committee on Health Care (originally sponsored by Representatives Hunt, Fromhold, Alexander and Armstrong).

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

Background: The Business Enterprise Program trains and licenses legally blind people to manage vending routes, gift shops, and food service facilities in government buildings. There are currently 19 vendors in the

program, which is administered by the Department of Services for the Blind. The vendors are not state employees, and as such, are not eligible for health insurance through the Public Employees' Benefits Board. The Public Employees' Benefits Board designs and approves health insurance benefit plans for state employees, school district employees, and retirees.

Summary: Blind licensees who operate facilities and participate in the Business Enterprise Program are eligible for health insurance offered by the Public Employees' Benefits Board. The health insurance benefits will be the same or substantially similar to the plan of health insurance offered to state employees. The costs of providing health insurance for blind licensees will be paid from net proceeds from vending machine operations in public buildings.

Votes on Final Passage:

House	94	0
Senate	47	0

Effective: June 13, 2002

SHB 1759
PARTIAL VETO
C 213 L 02

Allowing for the sale of hypodermic syringes and needles to reduce the transmission of blood-borne diseases.

By House Committee on Health Care (originally sponsored by Representatives Darneille, Schual-Berke, McDermott, Santos, Murray, Tokuda and Wood).

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

Background: Approximately 41,000 injection drug users live in Washington. Injection drug users are at a high risk of blood-borne infections, including the human immunodeficiency virus (HIV) and the hepatitis B and C virus. Injection drug users account for approximately 21 percent of the state's acquired immune deficiency syndrome (AIDS) cases. The sharing of syringes leads to the transmission of these debilitating and costly diseases.

State law prohibits a pharmacist from selling clean syringes unless they can satisfy themselves that the device will be used for the legal use intended.

In 2000 the Governor's Advisory Council on HIV/AIDS and the Governor's Council on Substance Abuse issued a joint report entitled: "Prevention of Blood-Borne Infections." The report recommended allowing access to sterile syringes as a way to reduce the spread of blood-borne infections among injection drug users. Other specific recommendations include:

1. Amend RCW 70.115.050 and RCW 69.50.4121 to allow for the pharmaceutical sale of sterile syringes.

- Sales limited to 10 syringes.
 - Sales limited to individuals at least 18 years old.
 - Pharmacists should be required to provide drug prevention and treatment materials at the point of sale.
2. Amend RCW 69.50.421 to allow for the limited possession and sale of sterile syringes for legitimate public health purposes.

Summary: Individuals over 18 years of age may possess sterile syringes to use in reducing the transmission of blood-borne diseases. Injection syringe equipment may be distributed through pharmacies. Pharmacists may provide drug prevention and treatment materials at the point of sale. Sterile syringes sold under this act will be exchanged for used syringes.

Votes on Final Passage:

House	75	22	
Senate	32	16	(Senate amended)
House	66	31	(House concurred)

Effective: June 13, 2002

Partial Veto Summary: The Governor vetoed the requirement that the number of syringes and needles sold cannot exceed the number of used syringes and needles returned at the time of sale. The requirements that syringes and needles only be sold to individuals over 18 years of age, and pharmacies provide materials related to drug prevention and treatment and safe disposal techniques are vetoed.

VETO MESSAGE ON HB 1759-S

March 28, 2002

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

I am returning herewith, without my approval as to section 4, Substitute House Bill No. 1759 entitled:

"AN ACT Relating to the sale of hypodermic syringes;"

This bill authorizes the sale and possession of hypodermic syringes and needles to reduce the transmission of bloodborne diseases, such as HIV/AIDS and hepatitis B and C.

Subsection 4(3) of the bill would have limited sales of syringes to the number of used hypodermic syringes and needles returned by the individual at the time of the sale. This provision would have the consequence of requiring all legal users of syringes to exchange their used injection equipment in order to purchase necessary supplies. Particularly affected by this requirement would be those individuals who are diabetic and insulin dependent.

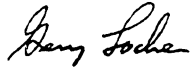
Section 4 would have effectively made pharmacies universal disposal sites for used equipment. Pharmacy personnel would have been required to handle and count used needles, exposing them to risk of infection. That would be an unacceptable safety risk. Also, in many instances, pharmacies are not equipped to handle this disposal challenge or expense.

For these reasons, I have vetoed section 4 of Substitute House Bill No. 1759.

HB 1856

With the exception of section 4, Substitute House Bill No. 1759 is approved.

Respectfully submitted,



Gary Locke
Governor

HB 1856 C 214 L 02

Excusing student absences for state-recognized search and rescue activities.

By Representatives Morell, O'Brien, Talcott, Miloscia, Quall, Carrell, Rockefeller, Bush, Cox, Pflug, Pearson and Woods.

House Committee on Education
Senate Committee on Education

Background: By law, with some exceptions, all children between the ages of 8 and 18 must attend school. Children who attend public school may be absent under limited conditions. The school district must excuse children who are physically or mentally unable to attend school. They must also excuse students who are absent at the parents' request for a purpose that has been agreed upon by the parents and school authorities. However, the school may not excuse absences that are deemed to have a seriously adverse effect on the student's educational progress.

The chief law enforcement officer of each city or county is responsible for local search and rescue operations. These operations are conducted under the auspices of state and local plans that have been adopted by the local county or city governing board. The operations are coordinated by the local director of emergency management. Under certain conditions, the state will compensate local jurisdictions for the costs associated with search and rescue activities.

Summary: School districts are strongly encouraged to grant excused absences for up to five days each year to students participating in state-recognized search and rescue activities, as long as the students' parents and principals approve and the absences will not have a seriously adverse effect upon the students' educational progress.

Voting Final Passage:

House	96	0	
Senate	48	0	(Senate amended)
House	94	0	(House concurred)

Effective: June 13, 2002

2SHB 1938 C 169 L 02

Making sabotage an aggravating circumstance.

By House Committee on Criminal Justice & Corrections (originally sponsored by Representatives Pearson, Sump, Doumit, Jackley, Pennington, Mulliken, Boldt, Schoesler and Buck).

House Committee on Criminal Justice & Corrections
Senate Committee on Judiciary

Background: Criminal sabotage is any act that takes, damages, destroys, or attempts to damage, or destroy, any piece of property with the intent to disrupt the management, operation, or control of any agricultural, stockraising, lumbering, mining, quarrying, fishing, manufacturing, transportation, mercantile, or building enterprise, or any other public or private business or commercial enterprise employing people for wages.

Criminal sabotage is an unranked 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.

The Sentencing Reform Act (SRA) governs the sentencing of adult felons who commit a crime after July 1, 1984. Generally, these felons receive a sentence within the standard range for the offense which, under the SRA, is calculated using the seriousness level of the current offense and the extent of the offender's criminal history.

Although the standard range is presumed appropriate for the typical felony case, a court may 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). To impose an exceptional sentence, generally, the court must find that there are substantial and compelling reasons. Further, the court is required to set forth the reasons in writing.

The 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 into deliberate cruelty to a victim; vulnerability of a victim; sexual motivation on the part of the defendant; or an ongoing pattern of multiple incidents of abuse to a victim.

Summary: The illustrative list of aggravating factors that a court may consider when imposing an exceptional sentence is expanded to include certain acts of sabotage. Specifically, a court may consider imposing a sentence above the standard range when the court finds that the defendant committed an act with intent to obstruct or impair human health care, animal health care, agricultural research, forestry research, or commercial production.

Votes on Final Passage:

House	96	0	
Senate	48	1	(Senate amended)
House	94	0	(House concurred)

Effective: June 13, 2002**SHB 2015**

C 90 L 02

Protecting personal information.

By House Committee on Financial Institutions & Insurance (originally sponsored by Representatives McIntire, Hatfield, Benson, Bush, Ruderman, Schual-Berke, Conway, Kenney, Keiser and Hurst).

House Committee on Financial Institutions & Insurance
Senate Committee on Labor, Commerce & Financial Institutions

Background: The right to privacy found in the U.S. Constitution and the Washington state Constitution generally protects individuals from improper intrusion into personal or private affairs by the government, but not by private organizations. Under the common law, a person may have a cause of action under contract or tort principles if the person's right to privacy is invaded through disclosure of private information. Statutory protections for private information are limited in Washington, but include laws that, for example, protect a customer's financial information from being shared between financial institutions and/or the government unless certain requirements are met, require disclosure when credit information is shared with other entities, prohibit obtaining financial information fraudulently, and restrict disclosure of personal health care information.

With the passage of the federal Gramm-Leach-Bliley-Act (GLBA) in 1999, financial institutions are required to implement procedures to protect the security and confidentiality of customers' non-public personal information. To this end, the GLBA requires that the pertinent federal agencies promulgate regulations setting forth standards to guide financial institutions in establishing policies and systems to protect such information. This directive has resulted in a body of federal regulations entitled "Interagency Guidelines Establishing Standards For Safeguarding Customer Information." These guidelines require financial institutions to develop comprehensive information security programs for the protection of customer information. Though the guidelines do not specifically address the issue of records disposal, the regulations can be interpreted to require that records disposal procedures be designed to ensure that personal information be destroyed.

At least two states, California and Wisconsin, require certain businesses to destroy personal informa-

tion in records when the business holding the records intends to dispose of them.

Summary: An entity must take reasonable steps to destroy personal financial and health information and government-issued identification numbers in its records when the entity is disposing of records it no longer retains. This requirement does not apply, however, to disposal of records by legal transfer to another entity, including archiving public records. An "entity" includes businesses, whether for-profit or not, engaged in an enterprise in this state, as well as governmental entities, except the federal government.

Financial institutions, health care organizations, and other specified entities subject to federal regulation are deemed to be in compliance with these personal information protection requirements if they comply with pertinent federal regulations.

A party injured by the failure of an entity to comply with these personal information protection requirements may bring a civil action against the entity. For negligent noncompliance, a court may award \$200 or actual damages, whichever is greater, and costs and reasonable attorney's fees. For willful noncompliance, a court may award \$600 or treble actual damages, whichever is greater, and costs and reasonable attorney's fees.

A party having reason to believe that he or she may be injured by noncompliance may seek injunctive relief, which may be granted with terms as the court finds equitable. The Attorney General may also bring a civil action for damages or injunctive relief, or both, and the court may award the same damages as may be awarded for individuals. The remedies provided are in addition to other rights or remedies.

Votes on Final Passage:

House	98	0
Senate	48	0

Effective: June 13, 2002**SHB 2031**

C 179 L 02

Limiting the taxation of payphone services.

By House Committee on Finance (originally sponsored by Representatives Cairnes, Crouse, Poulsen, Morris, Reardon, Delvin and Barlean).

House Committee on Finance
Senate Committee on Economic Development & Telecommunications
Senate Committee on Ways & Means

Background: Cities and towns may impose gross receipts taxes on businesses. Rates for utility businesses are generally much higher than rates for other businesses such as retailers. Utility rates cannot exceed 6 percent without voter approval. Rates for retailers cannot exceed

SHB 2060

0.2 percent without voter approval. The rate of tax applicable to telephone services depends on whether the services are network telephone services or competitive telephone services. The higher utility tax rates apply to network telephone services. The lower retailer rates apply to competitive telephone services. Coin telephone services are expressly included in the statutory definition of network telephone service and are therefore subject to utility tax rates.

Summary: If a city or town imposes gross receipts taxes on payphone services, the tax must be at the same rate as applies to retailers. Payphone service is defined as service provided on a fee-per-call basis, whether the telephone is coin-operated or is activated by calling collect or using a calling card.

Votes on Final Passage:

House	98	0
Senate	42	5

Effective: July 1, 2002

SHB 2060 C 294 L 02

Providing funds for housing projects.

By House Committee on Finance (originally sponsored by Representatives Dunn, Cooper, Haigh, Edmonds and Fromhold).

House Committee on Local Government & Housing
House Committee on Finance
Senate Committee on Labor, Commerce & Financial Institutions
Senate Committee on Ways & Means

Background: County auditors are required by statute to record deeds and other instruments that are to be filed and recorded with the county. Recording fees are charged for recording instruments by County Auditors for their official services and are set forth in statute. The fee for recording instruments is \$5 for the first page and \$1 for each additional page.

The Office of Community Development within the Department of Community, Trade, and Economic Development, administers the state housing programs. Among these programs are the Housing Trust Fund, the HOME Program, and the Housing Improvements and Preservation Unit.

The Housing Trust Fund includes revenue established under statute, legislative appropriations, private contributions, repayment of loans, and all other sources. The fund was established to assist low and very low-income citizens in meeting their basic housing needs.

Summary: County auditors are required to charge a \$10 surcharge on recording fees for recordings of real property documents, but not to assignments of previously

recorded deeds of trust. County Auditors may retain up to 5 percent of collected funds for administration.

Sixty percent of the remaining funds are retained by the county and must be used by the county and its cities for very low-income housing projects. These funds cannot be used for new housing if the vacancy rate for available low-income housing rises above 10 percent.

The remaining 40 percent of the revenue is deposited monthly with the State Treasurer in the Washington Housing Trust Account. The Office of Community Development is required to develop guidelines for the use of funds to support building operation and maintenance costs of extremely low-income housing projects.

The Washington State University Real Estate Research Center is required to develop a vacancy rate standard for low-income housing in the state.

The Office of Community Development is required to conduct a statewide housing market analysis by region.

Votes on Final Passage:

House	68	29	
Senate	29	16	(Senate amended)
House	65	31	(House concurred)

Effective: June 13, 2002

2SHB 2100 C 72 L 02

Increasing bid limits for PUDs using the alternative bid procedure under RCW 39.04.190.

By House Committee on State Government (originally sponsored by Representatives Dunshee, Mulliken and Berkey).

House Committee on State Government
Senate Committee on State & Local Government

Background: Local governments generally are allowed to purchase materials, supplies, and equipment below a certain dollar value without following a competitive bidding procedure. Formal competitive bidding procedures must be followed for purchases above a certain dollar value, with exceptions for emergency purchases and sole source purchases.

Legislation was enacted in 1993 establishing a uniform vendor list procedure for a number of different types of local governments to award medium dollar valued contracts for purchasing materials, supplies, equipment, or services.

A vendor list is established by publishing a notice, at least twice a year, soliciting vendors for inclusion on the list and initiating procedures for securing telephone or written quotations from at least three different vendors on the list whenever possible to assure that a competitive price is established and the award is made to the lowest responsible bidder.

Public utility districts may use criteria adopted by the Department of General Administration to determine the lowest responsible bidder. Criteria include bid price, ability to perform, experience, ability to perform within timelines, quality of past performance, and previous and past compliance with laws relating to the contract. Immediately after the award is made, the bid quotations are open for public inspection and are available by telephone inquiry.

The statute authorizing each local government to use the vendor list procedure establishes a range of dollar values of purchases that may be made using this procedure. Generally, purchases below that range of dollar values may be made without any competitive solicitation and purchases above that range must be made using formal competitive bidding procedures.

Summary: The maximum dollar value of a purchase of materials, supplies, and equipment that a public utility district may make using the vendor list process is increased from \$35,000 to \$50,000, not including sales tax.

The minimum dollar value of a purchase of materials, supplies, and equipment that a public utility district may make using the vendor list process is increased from \$5,000 to \$10,000, not including sales tax.

The maximum cost of materials, supplies, and equipment that may be purchased by a public utility district without bidding is increased from \$5,000 to \$10,000, not including sales tax.

Votes on Final Passage:

House	97	0
Senate	42	4

Effective: June 13, 2002

SHB 2160
C 295 L 02

Regulating charitable gift annuity businesses.

By House Committee on Financial Institutions & Insurance (originally sponsored by Representative McIntire).

House Committee on Financial Institutions & Insurance
Senate Committee on Labor, Commerce & Financial Institutions

Background: Many nonprofit charitable, educational, religious, and scientific organizations encourage donations by offering donors the option of receiving a "charitable gift annuity" in return for a gift of property, stock, cash or other asset. After making a donation, the recipient of such an annuity receives periodic cash payments for life from the organization. The donor thus gains a guaranteed income for life and often obtains tax advantages as well. The organization, in turn, obtains the benefit of the investment value of the donated asset.

The State Insurance Commissioner regulates the operation of nonprofit organizations and insurers involved in the charitable annuity business. The commissioner may exempt a charitable annuity business from most of the regulatory requirements of the insurance code, provided the business meets specified statutory criteria including the maintenance of specified minimum net assets, tax exempt status, organized as a nonprofit. If the statutory criteria are satisfied, the commissioner may issue a "certificate of exemption."

An entity that has been granted a certificate of exemption as a charitable gift annuity business must maintain a separate reserve fund adequate to meet future payments owed under its annuity contracts. The amount of the reserve fund is determined under a formula and the maintenance of the fund is subject to regulation by the commissioner.

Summary: Reserve fund exemption: Under certain circumstances, a charitable organization or insurer may be partially or totally exempted from the requirement that it maintain a separate reserve fund adequate to meet its future contractual obligations with respect to charitable annuity payments. In lieu of maintaining such a reserve fund, a qualified organization may purchase from a licensed insurance company a single premium life annuity that is sufficient to cover all or part of the organization's obligations under its charitable gift annuity contracts.

Insurer requirements: The insurer issuing the single premium life annuity must: (1) hold a certificate of authority in this state; (2) be licensed in the state in which the charitable organization has its principal office; and (3) be licensed in the state in which the annuity is issued.

Required documentation: To be exempted from the reserve fund requirement, an organization must: (1) file with the commissioner a copy of the single premium life annuity, along with other documentation; and (2) obtain a written agreement among the parties stipulating that if the organization cannot make the required annuity payments the annuity recipients shall receive payments directly from the insurer.

Votes on Final Passage:

House	96	0	
Senate	45	1	(Senate amended)
House	94	0	(House concurred)

Effective: June 13, 2002

SHB 2169
C 165 L 02

Revising fire districts' options for issuing warrants.

By House Committee on Local Government & Housing (originally sponsored by Representative Alexander).

House Committee on Local Government & Housing
Senate Committee on State & Local Government

Background: Fire district warrants are orders by which the drawer authorizes one person to pay a particular sum of money. Fire district warrants are issued by the fire district secretary, who prepares and signs the vouchers, which are also signed and approved by a majority of the district board, and submits the vouchers to the county auditor. The auditor issues the warrants and sends them to the county treasurer for payment. Warrants are then paid by the county treasurer against proper funds of the district.

Fire districts that have had an annual operating budget of over \$5 million for each of the last three years may adopt a policy by resolution to issue their own warrants for payments of claims or other obligations of the fire district.

Summary: Fire districts that have had an annual operating budget between \$250,000 and \$5 million for each of the last three years are authorized, upon agreement with the county treasurer, to adopt a policy to issue their own warrants for payments of claims or other obligations of the fire district.

Votes on Final Passage:

House 95 0
Senate 43 4 (Senate amended)
House 94 0 (House concurred)

Effective: June 13, 2002

ESHB 2224
C 357 L 02

licensing specialty producers of certain lines of insurance.

By House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Benson and Hatfield).

House Committee on Financial Institutions & Insurance
Senate Committee on Labor, Commerce & Financial Institutions

Background: The Office of the Insurance Commissioner (OIC) regulates the licensing of agents, brokers, solicitors, and adjusters within the insurance industry. Such insurance professionals must be licensed in accordance with specific statutory criteria and may not engage in insurance marketing activities without the requisite license. In addition to the submission of an application,

a prospective licensee must pass an examination designed to test his or her qualifications and competence.

Many retailers of consumer electronics products offer insurance to customers covering the theft, loss, or damage of such products. This type of insurance is generally sold to retail customers by employees of the retailer at the time of the purchase of the product. The marketing of such insurance by retailers is not subject to regulation by the OIC and does not require that the retailer be licensed.

Summary: The OIC is authorized to implement a regulatory scheme governing the insurance marketing practices of specified communications equipment retailers.

In order to market insurance products to customers, a retailer of communications equipment must obtain a specialty producer license from the OIC. "Communications equipment" includes cell phones, pagers, portable computers, and myriad other devices designed to originate or receive communications signals. The license allows the retailer and its employees or authorized representatives to market insurance related to the sale of such equipment. The OIC is authorized to adopt rules expanding the categories of covered equipment.

Before a license may be issued to the retailer, it must be appointed as the agent of an authorized insurer. Furthermore, the operation of the communications equipment insurance program requires that the retailer affiliate with a state licensed insurance agent, who must supervise a training program for the retailer's employees.

Licensed retail establishments are required to provide prospective customers with written materials disclosing the terms of the insurance program.

The OIC is granted extensive rulemaking authority to implement this program.

Votes on Final Passage:

House 97 0
Senate 46 1 (Senate amended)
House 94 0 (House concurred)

Effective: June 13, 2002

HB 2284
C 193 L 02

Disqualifying commercial drivers for grade crossing violations.

By Representatives Fisher, Hatfield, Mitchell and Haigh; by request of Department of Licensing.

House Committee on Transportation
Senate Committee on Transportation

Background: The Federal Motor Carrier Safety Administration promulgates rules that govern commercial driver's licenses. A recent federal rule requires states to disqualify drivers of commercial vehicles who have been convicted of or found to have committed railroad-

highway grade crossing violations. States must comply with this rule by October 4, 2002. Failure to comply with federal requirements could result in the loss of up to 10 percent of federal transportation funds.

Washington law does not disqualify commercial drivers for railroad-highway grade crossing violations.

Summary: A holder of a commercial driver's license is disqualified from driving commercial vehicles if convicted of or found to have committed one of the following railroad-highway grade crossing violations: failing to slow down or stop, failing to have sufficient space to drive completely through the crossing without stopping, failing to obey a traffic control device, or failing to negotiate a crossing because of insufficient undercarriage clearance.

The disqualification period ranges from 60 days for the first violation, to 120 days for two violations within three years, to one year for three or more violations within three years.

Votes on Final Passage:

House 97 0
Senate 49 0

Effective: June 13, 2002

HB 2285
C 183 L 02

Modifying fuel tax provisions.

By Representatives Fisher, Hatfield, Mitchell and Haigh; by request of Department of Licensing.

House Committee on Transportation
Senate Committee on Transportation

Background: The state levies a 23 cent-per-gallon tax on special fuel, i.e., diesel fuel. The tax revenue must be spent for highway purposes. Dyed special fuel is exempt from the special fuel tax. A person may not operate a vehicle on a public road in this state with dyed special fuel in the vehicle's fuel supply tank, unless the use is authorized by the federal internal revenue code.

The penalty for unlawful use of dyed special fuel to operate a vehicle upon the highways of the state is \$10 for each gallon of dyed special fuel placed into the vehicle's supply tank or \$1,000, whichever is greater. The penalties apply only to the user of the dyed special fuel, not to the distributors or sellers.

The Department of Licensing has received legal advice that some changes to the provisions regarding dyed special fuel would assist it in enforcing the prohibition against unlawful use of dyed special fuel.

Summary: The application of current law to persons who use dyed special fuel unlawfully is clarified. Penalties are extended to persons who intentionally sell dyed special fuel for unlawful use.

The definition of tax "evasion" is expanded to include omissions of fact and the unlawful use of dyed special fuel. Dyed special fuel is subject to tax if held for sale, sold, used, or intended to be used in violation of the law. Persons engaging in the unauthorized use of dyed special fuel are subject to all presumptions, reporting, and record keeping requirements of the law. The civil penalty for unlawful use of dyed fuel attaches to persons for "having fuel in the tank" rather than "using fuel for propulsion." A person who stores dyed special fuel in bulk for intended sale or use in violation of the law is subject to a penalty of \$10 per gallon or \$1,000, whichever is greater.

Votes on Final Passage:

House 97 0
Senate 47 0

Effective: June 13, 2002

HB 2286
C 246 L 02

Correcting language regarding certificates of ownership for stolen vehicles.

By Representatives Fisher, Hatfield, Mitchell and Haigh; by request of Department of Licensing.

House Committee on Transportation
Senate Committee on Transportation

Background: When a person applies to register a vehicle brought in from out of state, the Department of Licensing (DOL) is required to do a stolen vehicle search of out-of-state vehicles as part of the titling process. If the stolen vehicle search produces results indicating the vehicle was flagged as reported stolen, the department is required to report this information to the Washington State Patrol (WSP) for further investigation.

During this investigative process, the DOL is prohibited from registering the vehicle. This means the applicant may not legally drive the vehicle until the WSP confirms that the vehicle is not stolen. Once the WSP does its investigation and confirms that the vehicle is not stolen, the WSP will then issue documentation indicating this fact. The applicant must submit this documentation to the DOL in order to register his or her vehicle and subsequently obtain a certificate of ownership.

Summary: In conducting a stolen vehicle search of out-of-state vehicles, if a vehicle is flagged as reported stolen, the DOL is prohibited from issuing a certificate of ownership. (However, in order to allow an applicant the ability to legally drive a vehicle which has been flagged as reported stolen, the DOL is allowed to register the vehicle while the WSP conducts its investigation.)

Once the WSP confirms that a vehicle under investigation is not stolen, or if the out-of-state search indicates

EHB 2288

the vehicle is not stolen, the Department is authorized to issue a certificate of ownership.

Votes on Final Passage:

House 97 0

Senate 46 0

Effective: June 13, 2002

EHB 2288

C 188 L 02

Facilitating perpetual management of environmental mitigation sites.

By Representatives Fisher, Mitchell, Rockefeller, Wood and Esser; by request of Department of Transportation.

House Committee on Transportation

Senate Committee on Transportation

Background: Through local, state and federal permitting processes, the Department of Transportation is required to conduct ecological restoration and enhancement activities to compensate for transportation activity impacts to environmentally sensitive areas.

The department, in many cases, purchases properties for the mitigation sites. Because some mitigation sites are distant from the highway right of way, site maintenance can be more difficult. The department would like to release these sites to parties charged with land management.

State law requires department property to be transferred at fair-market value.

Summary: The Department of Transportation is authorized to convey to another party properties which serve as environmental mitigation sites. These conveyances may be to governmental agencies, tribal governments, or private nonprofit groups organized for environmental conservation purposes, as consideration for those agencies or groups assuming maintenance and operation obligations required to maintain the site in perpetuity.

The conveyances must be by quitclaim deed and must restrict use of the property to a mitigation site. Tribal governments must waive sovereign immunity with respect to the transaction so that the state can enforce reversion rights in state court. Reversion to the department is required if the site is not used as a mitigation site or is not maintained to legal requirements.

Votes on Final Passage:

House 97 0

Senate 47 0

Effective: June 13, 2002

HB 2289

C 215 L 02

Regulating planting stock certification and nursery improvement programs.

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

House Committee on Agriculture & Ecology

House Committee on Appropriations

Senate Committee on Agriculture & International Trade

Background: An annual assessment is levied on the sale price of all fruit trees, fruit tree related ornamental trees, and fruit tree rootstock produced in this state or shipped by a licensed nursery dealer. The botanical genera of the related ornamental trees to which the assessment applies are listed by statute. The assessment is on the wholesale market value of those sales and, except for certain rootstock, is based on the first sale price of the nursery stock. The rate of assessment is determined by the director of the Department of Agriculture by rule as being that needed to carry out a fruit tree certification and nursery improvement program. An advisory committee has been created by statute to advise the director regarding the fruit tree certification and nursery improvement program. The director may provide, on a fee-for-service basis, special inspections and certifications to facilitate the movement of agricultural commodities.

Summary: The plants subject to the assessment levied on sales of nursery stock for the fruit tree certification and nursery improvement program are altered and the purposes of the assessment are expanded. The programs supported by the assessment now include a grapevine certification and nursery improvement program. The plants the sale of which are assessed are all plants that fall within the botanical genera that contain: grapevines; quinces; hawthorns; apple and crab apple trees; almond, apricot, cherry, nectarine, peach, and plum trees; pears; and whitebeams and mountain ashes.

A committee is established to advise the director of the Department of Agriculture in the administration of the grapevine certification and nursery improvement program. It is composed of two grapevine nursery dealers, three grape growers (two of which must grow wine grapes), a winery representative, a university researcher, and the director.

The special services that the director may provide on a fee-for-service basis are expressly broadened to include those that facilitate the marketing of agricultural commodities and other plant products.

Votes on Final Passage:

House 98 0

Senate 48 0

Effective: June 13, 2002

HB 2299
C 296 L 02

Defining person under the business corporation act, uniform limited partnership act, and limited liability company act.

By Representatives Esser, Lantz and Benson.

House Committee on Judiciary
Senate Committee on Judiciary

Background: A variety of business entities are authorized under Washington law. Some of these entities are the subject of individual chapters in the law. In recent years, several new kinds of business entities, such as limited liability partnerships and companies have been authorized.

The word "person" appears in the definition sections of several of the laws relating to business entities. The word is applied in various ways throughout each of these laws. The word may be defined somewhat differently in each of these separate laws. For instance, "person" in the Business Corporation Act is defined simply to include "an individual and an entity," although the word "entity" is defined elsewhere in the act with some greater specificity.

The most recent enactment relating to business entities is the Revised Uniform Partnership Act (RUPA). That law was enacted in 1998 and contains a more detailed and comprehensive definition of the term "person."

Summary: The Business Corporation Act, the Uniform Limited Partnership Act, and the Limited Liability Company Act are each amended to incorporate the definition of "person" that is used in the RUPA.

Votes on Final Passage:

House	96	0
Senate	44	0

Effective: June 13, 2002

SHB 2301
C 297 L 02

Authorizing electronic notice and other communications under the Washington business corporation act.

By House Committee on Judiciary (originally sponsored by Representatives Lantz, Esser, Anderson, Benson, Upthegrove and Kagi).

House Committee on Judiciary
Senate Committee on Judiciary

Background: The Washington Business Corporations Act (WBCA) provides rules and requirements on the organization and operation of corporations and the relationship between shareholders, directors, and officers of the corporation.

The WBCA requires that a number of documents of the corporation be filed with the Secretary of State. Examples of documents that must be filed include: articles of incorporation; written consent, or resignation, of the corporation's registered agent; articles of amendment or restatement; articles of merger or share exchange; and articles of dissolution. The Secretary of State files a document by stamping or endorsing "Filed" on the original and document copy. The Secretary of State must then deliver the document copy to the corporation or provide a written explanation if it refuses to file a document.

There are many provisions of the WBCA that require notices, consents, or other communications to be given between the corporation, shareholders, and directors. For example, action may be taken by shareholders or directors without having a meeting under certain circumstances as long as the action is evidenced by written consent of the shareholders or directors. Shareholders and directors may waive specified notice requirements by written consent. In addition, shareholders may cause a special meeting to be held under certain circumstances if the required number of shareholders sign, date, and deliver written demands for the meeting.

A corporation must maintain a registered office and registered agent in the state. A registered agent may be an individual, a domestic or foreign corporation, or a domestic or foreign not-for-profit corporation whose business office is identical with the corporation's registered office.

The Corporate Act Revision Committee of the Washington State Bar Association studied the potential use of electronic transmission of communications between corporations, shareholders, and directors and recommends that electronic transmission of certain notices, consents, and other communications should be allowed in addition to the traditional written format. In addition, the committee recommends the authorization of electronic filing with the Secretary of State and other changes with respect to registered offices and agents and proxy appointments.

Summary: The WBCA is amended to authorize filings, notices, consents, and other forms of communication between corporations, shareholders, and directors to be made by electronic transmission. Various other amendments are made to provisions relating to registered offices and registered agents and to proxy appointments.

The Secretary of State may permit records to be filed through electronic transmission and may adopt rules to establish the circumstances and requirements of an electronic filing system. The Secretary of State may deliver a record of the filing, or a record of a refusal to file, by electronic transmission if the corporation designates an electronic transmission address, location, or system and the Secretary of State elects to provide the record by electronic transmission.

Changes are made to general requirements relating to various notices required under the WBCA. The requirement that notice be in writing is changed to a requirement that notice be provided in the form of a "record," which is defined as any information in a tangible medium or in an electronic transmission. Notice to a shareholder or director may be electronically transmitted if the shareholder or director consents to electronically transmitted notice and designates an address, location or system for delivery of the electronic transmission. Notice to a shareholder or director may include material that the WBCA requires to be included with the notice. Electronically transmitted notice may be provided by posting the notice on an electronic network and delivering a separate record of the posting and instructions on how to obtain access to the posting.

A shareholder or director may revoke consent to receive electronically transmitted notice by delivering a revocation to the corporation in the form of a record. In addition, the consent of a shareholder or director is revoked if the corporation is unable to electronically transmit two consecutive notices and this inability becomes known to the secretary of the corporation or other person responsible for sending the notice.

Notice in a tangible medium by a corporation to a shareholder is effective when mailed with first-class postage or when dispatched by air courier. Notice in an electronic transmission is effective when it is transmitted to an electronic transmission address, location or system designated by the recipient or when posted to a network and a separate record of the posting has been delivered to the recipient.

References throughout the WBCA to "document" are replaced with references to "record." References to "written" and "signed" in various provisions relating to consents, demands, and notices are removed and replaced with requirements that the consents, demands, and notices be in the form of a "record" that is "executed." "Execute" is defined as follows: for written records, if the record is signed; for electronic transmissions, if it contains sufficient information to determine the sender's identity; and for records to be filed with the Secretary of State, if they comply with filing rules adopted by the Secretary of State.

The types of entities that may be a registered agent of a corporation are expanded to include a domestic or foreign limited liability company whose business office is identical with the corporation's registered office.

A shareholder's proxy appointment may be made by recorded telephone call or voice mail, in addition to by electronic transmission.

Changes are made to the definitions of "electronic transmission," "entity," and "deliver." Definitions are provided for "tangible medium," "writing" and "written."

Votes on Final Passage:

House 97 0
Senate 49 0

Effective: June 13, 2002

HB 2302

C 73 L 02

Modifying certain application methods for unemployment insurance.

By Representatives Conway, Wood, Kenney and Edwards; by request of Employment Security Department.

House Committee on Commerce & Labor
Senate Committee on Labor, Commerce & Financial Institutions

Background: In 1998 the requirement that initial applications for most unemployment insurance benefits be in writing was eliminated. Initial applications for most benefits may be filed "in a form other than in writing" as determined by the commissioner of the Employment Security Department. Individuals applying for most benefits may file initial applications by telephone through the department's call centers or via the Internet.

However, the requirement that initial applications for benefits through the Temporary Total Disability (TTD) Program be in writing was not changed. Individuals applying for benefits through the TTD Program must file initial applications in writing.

(The TTD Program pays unemployment insurance benefits to certain eligible individuals who have recovered from an injury or illness, and who are able, available, and actively seeking work.)

Summary: Individuals applying for unemployment insurance benefits through the Temporary Total Disability Program may file initial applications in a form other than in writing.

Votes on Final Passage:

House 96 0
Senate 46 0

Effective: June 13, 2002

HB 2303
FULL VETO

Correcting rate class 16 in schedule B.

By Representatives Conway, Wood and Kenney; by request of Employment Security Department.

House Committee on Commerce & Labor
Senate Committee on Labor, Commerce & Financial Institutions

Background: Washington's unemployment compensation program is designed and intended to provide partial wage replacement benefits for workers who are unemployed through no fault of their own. Contributions are payroll taxes used to finance these benefits. Contribution rates are determined using the employment compensation tax table, and are based on 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 is set annually, and depends on the balance in the unemployment insurance trust fund and the total payroll in covered employment. (In 2002, Schedule A is in effect.)

Each tax schedule contains 20 different rate classes. The rate class varies from employer to employer. An employer is assigned to one of 20 rate classes depending on the employer's layoff experience relative to other employers' experiences.

In 2000 when the Legislature reduced most contribution rates, there was an error in one contribution rate in the tax table. Rate Class 16 in Schedule B was set at the incorrect rate of 3.69 percent.

Summary: An error is corrected in an unemployment insurance contribution rate. Rate Class 16 in Schedule B is reduced from the incorrect rate of 3.69 percent to the correct rate of 3.42 percent.

Votes on Final Passage:

House	96	0
Senate	42	0

VETO MESSAGE ON HB 2303

March 21, 2002

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. 2303 entitled:

“AN ACT Relating to correcting rate class 16 in schedule B by amending RCW 50.29.025 and making no other changes;”

This bill was requested by the Employment Security Department. It would have corrected a clerical error in Schedule 'B' for rate class 16 in the unemployment insurance tax schedules. The purpose for the correction was to prevent employers who are in rate class 16 from paying higher taxes when Schedule 'B' is in effect.

However, after the passage of this bill, the legislature passed Engrossed House Bill No. 2901 which also makes the necessary correction to Schedule 'B', as well as other more substantive

changes to the unemployment insurance tax system. If House Bill No. 2901 were signed, it could create a confusing double amendment to the tax schedule.

For these reasons I have vetoed House Bill No. 2303 in its entirety.

Respectfully submitted,



Gary Locke
Governor

ESHB 2304
C 5 L 02

Adopting certain recommendations of the state Blue Ribbon Commission on Transportation.

By House Committee on Transportation (originally sponsored by Representatives Fisher, Jarrett, Kessler, Berkey, Sullivan, Dunshee, Lovick, Kenney, Lantz, Santos, Ruderman, Edwards, Murray, Rockefeller, Wood, O'Brien, Cooper, Haigh, Fromhold, Tokuda, Ogden, Romero, Cody, Darneille, Simpson, Linville, Upthegrove, Schual-Berke, Kagi and McIntire; by request of Governor Locke).

House Committee on Transportation
Senate 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.

Summary: Part I - Establishment of Transportation Performance Measures. An intent section establishes that policy goals must be created for the operation, performance of, and investment in the state's transportation system. A number of specific goals are listed and include the following: 1) no interstate highways, state routes, or local arterials shall be in poor condition; 2) no bridges shall be structurally deficient, and safety retrofits must be performed on those state bridges at the highest seismic risk levels; and 3) traffic congestion on urban state highways shall be significantly reduced and be no worse than the national mean.

The policy goals are to be used as the basis for the establishment of detailed performance measures to be created by the Transportation Commission.

Part I takes effect July 1, 2002.

Part II - Alternative Delivery Procedures for Construction Services. It is established that there is a pressing need for additional transportation projects to meet the mobility needs of Washington. With additional projects comes the need for additional work force assistance to ensure and enhance project delivery time lines. It is further established that it is the intent of the Legislature that no state employees lose their employment as a result of implementing new and innovative project delivery procedures.

The Washington State Department of Transportation (WSDOT) and labor groups must work together to develop a financial incentive program to aid in employee retention and recruitment where problems exist and program delivery is negatively affected. Once developed, the financial incentive program must be reviewed and approved by the Legislature before it can be implemented. The program must support the goal of enhancing project delivery timelines.

The department is authorized to acquire, by contract, construction engineering consultant services from private firms solely to augment the department's work force and when the construction program cannot be delivered through its existing work force. The procedures for acquiring construction engineering services from private firms may not be used to displace existing state employees nor diminish the number of existing classified positions in the current construction program.

"Construction services" is defined to mean those services that aid in the delivery of the highway construction program. "Construction engineering services" is defined to include, but is not limited to, construction management, construction administration, materials testing, materials documentation, contractor payments and general administration, construction oversight, and inspection and surveying.

Starting in December of 2003 and for every two years afterward, the secretary of the WSDOT must report to the House and Senate Transportation Committees on the use of construction engineering services from private firms.

Part II is null and void if new transportation revenues do not become law by January 1, 2003.

Part III - Apprenticeship and Adjustments to Prevailing Wage Provisions. It is established that the BRCT found that state and local transportation agencies are showing signs of an insufficiently skilled work force to operate the transportation system at its highest level. It is the intent of the Legislature that methods for fostering a stronger industry in transportation planning and engineering be explored.

It is further the intent of the Legislature to enhance the prevailing wage process by dedicating all intent and affidavit fees paid by contractors to the administration of the prevailing wage program.

The Department of Labor and Industries (L&I) must undertake the following activities: conduct wage surveys for each trade every three years; actively promote increased response rates; work with businesses, labor, and public agencies to ensure the integrity of information used in developing prevailing wage rates; process intents and affidavits in no more than seven working days from receipt of completed forms; and develop and implement electronic processing of intents and affidavits.

The Apprenticeship Council is required to work with the WSDOT, local transportation jurisdictions, local and statewide joint apprenticeships and other apprenticeship programs, representatives of labor and business organizations with interest and expertise in the transportation workforce, and representatives of the state's universities and community and vocational colleges to establish technical apprenticeship opportunities specific to transportation needs. The council must issue a report of findings and recommendations to the transportation committees by December 1, 2002.

The WSDOT must work with local transportation jurisdictions and representatives of transportation labor groups to establish a human resources skills bank of transportation professionals, designed to allow transportation authorities to draw from when needed. The department must issue a report of findings and recommendations to the transportation committees by December 1, 2002.

The state-interest component of the statewide multimodal transportation plan must include a plan for enhancing the skills of the existing technical transportation work force.

L&I, in cooperation with the WSDOT, must conduct an assessment of the current practices, including survey techniques, used in setting prevailing wages for trades related to transportation facilities and project delivery. The assessment must include an analysis of regional variations, and stratified random sampling survey methods. A final report must be submitted to the Governor and the transportation committees by December 1, 2002.

In establishing the prevailing rate of wage, all data collected by the L&I must be used only in the county for which the work was performed. This requirement would apply to surveys initiated on or after August 1, 2002.

The requirement to transfer 30 percent of the revenue generated by fees charged for filing intents and affidavits of wages paid, and fees charged for requesting arbitration of disputes, from the Public Works Administration Account (PWAA) into the General Fund is deleted. (This amount is retained in the PWAA for appropriation to the L&I to fund the administration of the prevailing wage program.)

\$950,000 from the PWAA is appropriated to the L&I for the biennium ending June 30, 2003, to carry out the purposes of Part III.

Part III is null and void if new transportation revenues do not become law by January 1, 2003.

Part IV - Transportation Planning and Efficiency.

WSDOT Provisions

Investment Efficiencies: The WSDOT must phase in the development of transportation demand modeling tools which evaluate investments by providing a common methodology to measure the costs and benefits of investments across modes. Project prioritization must be based upon cost-benefit analysis, where appropriate.

Maintenance and Preservation Efficiencies: The preservation program must use the most cost-effective pavement surfaces, and in making this determination, must take into consideration several factors that effect durability. The department must use a pavement management system using lowest life-cycle cost methodologies. The state highway system plan must include a maintenance element establishing service levels for highway maintenance that are designed to meet the benchmarks set by the Transportation Commission. Additionally, the state ferry system and state-owned rail programs must have a capital preservation plan using lowest life-cycle cost methodologies.

The WSDOT is required to conduct a multimodal corridor analysis on major congested corridors where needed improvements are likely to cost in excess of \$100 million.

An intent section establishes that funding for transportation mobility improvements must be allocated to the worst traffic chokepoints in the state. It is further intended that the Legislature will fund projects that provide systematic relief throughout an entire transportation corridor, rather than fund projects that provide spot improvements which fail to improve overall mobility within a corridor.

Priority programming for the improvement program must be based primarily upon: (1) addressing traffic congestion, delay and accidents; (2) location within heavily traveled corridors; (3) synchronization with other projects and modes; and (4) use of cost-benefit analysis to determine the proposed project's value. The WSDOT must report the results of its priority programming to the transportation committees by December 1, 2003, and December 1, 2005.

City/County Provisions

As a condition of receiving state funding, county transportation organizations, public transportation benefit areas, regional transit authorities, and municipalities that own or operate an urban public transportation system must submit maintenance and preservation management plans to the Transportation Commission for certification. The plans must inventory all transportation

system assets within their control and provide preservation plans based on lowest life-cycle costing.

The County Road Administration Board (CRAB) must establish a standard of good practice for maintenance of transportation system assets, to be implemented by no later than December 31, 2007. The CRAB must also develop a model maintenance management system for use by counties. Counties must submit their maintenance plans annually to the CRAB, who will compile all the information and submit it to the Transportation Commission on an annual basis.

During the 2003-2005 biennium, cities must provide the Transportation Commission preservation rating information on at least 70 percent of their city arterial network. Thereafter, the percentage of city arterials with preservation rating information must increase in 5 percent increments each biennium until 100 percent of the arterial network has preservation rating information.

Votes on Final Passage:

House	51	46	
Senate	46	0	(Senate amended)
House	67	28	(House concurred)

Effective: June 13, 2002

July 1, 2002 (Sections 101 and 401-404)

ESHB 2305

C 298 L 02

Clarifying the application of shoreline master program guidelines and master programs to agricultural activities on agricultural lands.

By House Committee on Local Government & Housing (originally sponsored by Representatives Hatfield, Doumit, Kessler, Grant, Kirby, Edwards and Linville).

House Committee on Local Government & Housing
Senate Committee on Natural Resources, Parks & Shorelines

Background: The Shoreline Management Act (SMA) governs all shorelines of the state, including both shorelines and shorelines of state-wide significance. Shorelines include all water areas, including reservoirs, and their associated shorelands except: (1) shorelines of statewide significance; (2) shorelines on segments of streams upstream of a point at which the mean annual flow is less than or equal to 20 cubic feet per second (cfs); and (3) shorelines on lakes fewer than 20 acres in size. Shorelands include the lands extending landward 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.

The SMA requires counties and cities with shorelines to adopt local shoreline master programs regulating

land use activities in shoreline areas of the state and to enforce those master programs within their jurisdictions. All 29 counties and more than 200 cities have enacted master programs.

The SMA also requires the Department of Ecology (DOE) to adopt guidelines for local governments to use when developing these local shoreline master programs. The DOE may propose amendments to the guidelines no more than once per year and must review the guidelines at least once every five years.

Local governments must develop or amend shoreline master programs consistent with the DOE guidelines within 24 months after the DOE guidelines are adopted. The DOE considers the adopted guidelines and SMA requirements when reviewing and approving local shoreline master programs.

Summary: Provisions regarding agricultural activities on agricultural lands are added to the Shoreline Management Act (SMA) to govern amendment or adoption of both shoreline master program guidelines by the Department of Ecology (DOE) and shoreline master programs by local governments. Definitions of "agricultural activities," "agricultural products," "agricultural equipment," "agricultural facilities," and "agricultural land" are added to the SMA with respect to these provisions.

The DOE's state shoreline master program guidelines and the local shoreline master programs based on those guidelines may not require modification of or limit agricultural activities occurring on agricultural lands. Local shoreline master programs for jurisdictions in which agricultural activities occur, however, must address the following activities:

- new agricultural activities on land not meeting the SMA's definition of "agricultural land";
- conversion of agricultural lands to other uses; and
- development not meeting the SMA's definition of "agricultural activities."

The agricultural activities provisions do not limit or change the terms of the statutory substantial development definition exception. These new provisions apply only to the SMA and do not affect other local government authority.

These provisions take effect the earlier of January 1, 2004, or the date the DOE amends or updates the SMA guidelines.

Votes on Final Passage:

House	73	25	
Senate	31	17	(Senate amended)
House	94	0	(House concurred)

Effective: January 1, 2004 (unless the Department of Ecology updates Shoreline Master Guidelines earlier)

SHB 2308

C 299 L 02

Encouraging recycling and waste reduction.

By House Committee on Agriculture & Ecology (originally sponsored by Representatives Linville, Schoesler, Anderson, Dunshee, Lovick, Lantz, Santos, Rockefeller, Berkey, Conway, Wood, Edwards, Cooper, Hunt, Fromhold, Dickerson, Cody, Simpson, Upthegrove, Kagi and McIntire).

House Committee on Agriculture & Ecology
House Committee on Appropriations
Senate Committee on Environment, Energy & Water

Background: The Waste-Not Washington Act of 1989 established a policy framework for waste reduction, reuse, and recycling that included setting a goal for the state to recycle 50 percent by 1995, expanding of local government solid waste planning, conducting a waste characterization survey, reporting requirements, and regulating solid waste collection companies.

According to the Department of Ecology, the state's recycling rate reached a high of 39 percent in 1996 and declined to under 33 percent in 1997. The department convened the Recycling Assessment Panel to evaluate causes in the recycling rate decline and to recommend responses. The panel's report was presented in February 2000 and included recommendations for legislation. Among the recommendations were plans for increasing commercial recycling, increasing the efficiency of residential recycling, increasing organic material recycling, addressing land-clearing waste, and raising awareness statewide.

Summary: The Legislature finds that it is the state's goal to establish programs to eliminate residential or commercial yard debris in landfills by 2012 in those areas where alternatives to disposal are available and effective.

The Department of General Administration (GA) is required to work with the commercial and industrial construction industry to develop guidelines for implementing on-site construction waste management. The guidelines must address standards for identifying the types of wastes generated, methods for analyzing the availability and cost-effectiveness of recycling services, methods for evaluating waste management alternatives if there is a lack of recycling services, strategies to maximize reuse and recycling, standardized formats for on-site waste management planning, and training and technical assistance for building managers and construction professionals in order to facilitate the incorporation of waste management planning and recycling into standard industry practice. The GA must report on these guidelines to the Legislature by December 15, 2002. The GA is also directed to develop goals for state use of recycled

or environmentally preferable products and services, contractor selection, and contract negotiations.

Any construction project that receives state funding must apply legislatively adopted product standards to the materials used in the project. The standards do not need to be applied if the administering agency and project owner determine that applying the standards would not be cost-effective or the products were not readily available.

Companies that collect recyclable materials are allowed to retain up to 30 percent of the revenue paid to the company for the materials. To participate in this program, a company must have a plan certified by the appropriate local government authority that demonstrates how retaining the revenue will be used to increase recycling. The Utilities and Transportation Commission must evaluate the effectiveness of this revenue sharing proposition and report to the Legislature in 2005.

The Department of Ecology (DOE) is instructed to investigate and draw conclusions by December 31, 2002, on the use of scrap tires as alternative daily cover for landfills and the feasibility of establishing and maintaining an incentive program for scrap tire market development. The investigation of alternative daily cover must include a review of specifications developed by other states and an analysis of how those specifications apply to Washington. The investigation of market development must include research into the availability of funding and proposed criteria for such a program. The DOE must also work with private-sector stakeholders to track and annually report increases or decreases in the state's tire recycling rates.

The Department of Transportation must evaluate scrap tire uses in civil engineering and road building applications, and report their finding to the legislature by November 30, 2003. This study must include the feasibility of using scrap tires in lightweight fills and an analysis of using rubber-modified asphalt in highway projects.

Votes on Final Passage:

House	98	0
Senate	46	0

Effective: June 13, 2002

SHB 2309

C 160 L 02

Concerning the authority of the Washington state board of denturists.

By House Committee on Health Care (originally sponsored by Representatives Cody, Campbell, Schual-Berke, Darneille, Edwards and Kenney; by request of Department of Health).

House Committee on Health Care

Senate Committee on Health & Long-Term Care

Background: In 1994 voters approved Initiative 607 which licensed denturists and established the state Board of Denture Technology. The board is authorized to determine qualifications for licensing, prescribe, administer and determine the requirements for examinations of applicants, adopt rules, set license and examination fees, and evaluate and designate approved schools. The secretary of the Department of Health (DOH) is the disciplinary authority under the Uniform Disciplinary Act.

In 1995 the Legislature enacted legislation that transferred denturist licensing authority to the secretary of the DOH. This legislation was later ruled unconstitutional on technical grounds by the state court of appeals, and the original licensing authority reverted to the board. The Legislature also enacted legislation transferring disciplinary authority from the board to the secretary of the DOH under the Uniform Disciplinary Act. This legislation was challenged on constitutional grounds and upheld by the court.

The legislative enactments as codified do not reflect current law as interpreted by the state court of appeals.

An applicant who is licensed in another state or federal enclave that maintains standards of practice substantially equivalent to those of the denturist licensing statute must be licensed by the secretary of the DOH without examination.

Summary: The statutes relating to the licensing of denturists and the authority of the Board of Denture Technology are reenacted to reflect current law as interpreted by the state court of appeals. The licensing authority of the secretary of the DOH is transferred to the board, including the responsibilities for determining the qualifications for applicants, the requirements for examination, and rule-making authority.

The name of the board is changed to the Washington State Board of Denturists, and the board is authorized to adopt rules, with the approval of the secretary, including rules providing for continuing competence.

An applicant licensed in another state, including U.S. territories, the District of Columbia and the Commonwealth of Puerto Rico, with substantially equivalent licensing standards as those in the denturist licensing statute, must be licensed by the secretary without examination.

Votes on Final Passage:

House	97	0	
Senate	47	0	(Senate amended)
House	96	0	(House concurred)

Effective: June 13, 2002

2SHB 2311

C 120 L 02

Changing provisions relating to small forest landowners.

By House Committee on Appropriations (originally sponsored by Representatives Doumit, Sump, Jackley, Rockefeller, Kessler, Eickmeyer, Hatfield, Delvin, Buck, Linville, Upthegrove, Ericksen and Cairnes).

House Committee on Natural Resources
House Committee on Appropriations
Senate Committee on Natural Resources, Parks & Shorelines

Background: The Small Forest Landowner Office was established within the Department of Natural Resources by the Legislature in 1999 as part of the Forests and Fish legislation. The office is required to work with small forest landowners on the development of alternate management plans or alternate harvest restrictions for riparian buffers and is required to develop criteria for adoption by the Forest Practices Board in a manual for these alternate management plans and harvest restrictions.

The Forests and Fish legislation established an advisory committee to assist the office in developing policy and recommending rules to the board. This advisory committee is composed of representatives of state agencies, tribes, and small forest landowners.

A forest landowner may participate in the forest riparian easement program if the landowner first obtains an approved forest practices application for timber harvest on his or her property. The office determines the amount of compensation to be offered to the small forest landowner for the easement. The amount of compensation is an amount equal to 50 percent of the value of the timber that was covered in a forest practices application that is required to be left unharvested. Compensation for small forest landowners who are unable to obtain approval of a forest practices application because of forest practice rules restrictions is determined by the office.

If any timber is removed prior to the expiration of the 50-year easement, the office is required to apply a reduced compensation factor to determine the value of those trees based on the proportional economic value lost to the landowner, considering income and growth. The compensation also includes the landowner's compliance costs. These costs account for the preparing and recording of the easement and any business and occupation or real estate taxes.

The office is authorized to contract with private consultants to conduct timber cruises of forestry riparian easements, for laying out streamside buffers, or for other regulatory requirements associated with the forest riparian easement program.

Summary: The Small Forest Landowner Office is authorized to contract with private consultants to per-

form functions related to the small forest landowner riparian easement program. The department must reimburse the landowners for the actual cost incurred by complying with the program's requirements.

The initial representatives of small forest landowners appointed to the office's advisory committee are given staggered terms. Two of the four members will serve five-year terms, and the other two will serve four-year terms. After these terms are completed, all members will serve four-year terms.

Removal of qualifying timber prior to the expiration of the easement must be done in accordance with the forest practice rules and the terms of the easement. Removing the timber does not result in reduced compensation to the landowner.

Legislative intent is stated to give small forest landowners access to alternative plan processes and harvest restrictions that meet public resource protection standards and that lower the overall cost of regulation to small landowners. The Board of Natural Resources must report to the Legislature by July 1, 2003, and describe the progress made toward developing alternate plans and harvest restrictions.

Votes on Final Passage:

House	97	0
Senate	47	0

Effective: June 13, 2002

HB 2313

C 74 L 02

Allowing electronic filing and registration for charities, corporations, and partnerships.

By Representatives Lantz, Anderson, Rockefeller, Kenney, Ogden, Upthegrove, Kagi, Dunn and Esser; by request of Secretary of State.

House Committee on Judiciary
Senate Committee on Labor, Commerce & Financial Institutions

Background: The Secretary of State is responsible for receiving and maintaining a variety of documents, including a number of documents that various business entities are required to file. The Secretary of State may, for the purposes of the corporation filing statutes, have a filing system that uses microfilm, microfiche, or other methods of reduced-format document recording. The Secretary of State may eliminate any requirement for a duplicate original filing copy and may establish reasonable requirements for any reduced-format filing system.

The Nonprofit Corporation Act (NCA) and the Limited Liability Company Act (LLCA) require these entities to file a number of documents with the Secretary of State. Generally, duplicate originals of these documents

must be submitted, and there are requirements that many of these documents be signed by specified persons.

The Charitable Solicitations Act (CSA) requires all charitable organizations and commercial fund raisers to register with the Secretary of State prior to conducting charitable solicitations and to register any contract for solicitations. These registrations must be submitted in the form prescribed by rule by the Secretary of State and must be signed by a specified officer of the entity. The Secretary of State may impose a late filing fee on a charitable organization or fund raiser that fails to register after notification by the Secretary of State.

In addition to registration requirements, the CSA places certain conditions and requirements on solicitations by charitable organizations and commercial fund raisers, including detailed disclosure requirements and prohibitions on certain kinds of representations. Any person who violates the CSA or who gives false or incorrect information in filing statements is guilty of a criminal offense.

The Attorney General may enforce the provisions of the CSA through a variety of means, including by imposition of a civil penalty of not more than \$1,000. A person who is assessed a civil penalty may request a hearing on the penalty to the Attorney General. The Attorney General may enforce a final and unappealable order for an assessment by court action.

Summary: Amendments are made to the NCA, the LLCA, and the CSA to authorize or facilitate electronic filing with the Secretary of State. In addition, the CSA is amended to allow the Secretary of State to impose an assessment on any person who violates the CSA.

The Secretary of State's authority to use reduced-format filing systems is expanded to include electronic or online filing and is extended to any filing and registration statutes, not just corporation statutes. For an electronic or online filing system, the Secretary of State may establish reasonable requirements, such as signature technology, file format and type, and types of filing that may be completed electronically.

The NCA and the LLCA are amended to authorize the Secretary of State to adopt rules permitting electronic filing of documents. The rules will address when electronic filing of documents is permitted, how the documents will be filed and how the Secretary of State will return filed documents. In addition, the rules may impose additional requirements related to the electronic filing process. Unless the rules of the Secretary of State require otherwise, a document submitted for filing must be accompanied by an exact or conformed copy.

The NCA's requirements that a nonprofit corporation submit, and the Secretary of State return, duplicate originals of any documents that are required to be filed are removed. The Secretary of State must return an exact or conformed copy of these documents to the corporation.

The LLCA's extensive filing requirements are amended to authorize electronic filings in compliance with rules adopted by the Secretary of State as an alternative to paper filings.

The CSA is amended to facilitate an electronic filing system by defining "signed" to mean hand-written or in the manner specified by the Secretary of State in any rules adopted to facilitate electronic filing for charitable organizations.

The CSA is also amended to provide that the Secretary of State, rather than the Attorney General, is authorized to impose a civil penalty on an entity that violates a provision of the CSA.

Votes on Final Passage:

House	98	0
Senate	49	0

Effective: June 13, 2002

SHB 2315

C 216 L 02

Providing for the registration of recreational therapists.

By House Committee on Health Care (originally sponsored by Representatives Cody, McDermott, Kenney and Tokuda).

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

Background: The services and activities of recreation therapy are not regulated by the state as a health profession. Recreation therapists provide the use of recreational and/or community counseling and community integration as treatment intervention to improve the functioning of persons with disabilities.

Summary: A registration program for recreation therapy is established under the secretary of the Department of Health (DOH). Persons who practice or represent themselves as a registered recreation therapist must register with the DOH.

A recreation therapist performs recreational and/or community activities to include leisure counseling and community integration as treatment intervention to improve functional leisure and community competence of persons with physical, cognitive, emotional, behavioral, or social disabilities.

The secretary is authorized to adopt rules implementing the registration program and establish registration fees and procedures necessary to administer the program. The secretary must register an applicant who complies with the requirements of the chapter.

The secretary is the disciplining authority under the Uniform Disciplinary Act and will govern the issuance and denial of registration, unauthorized practice, and the

HB 2317

discipline of persons registered under this act for unprofessional conduct.

Votes on Final Passage:

House 97 0

Senate 38 9

Effective: July 1, 2003

HB 2317 C 300 L 02

Making technical changes to Title 48 RCW.

By Representatives Cooper and Benson; by request of Insurance Commissioner.

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

Background: Medigap Insurance Regulation: Medicare is a federally funded health insurance program administered by the federal Center for Medicaid and Medicare Services (CMS), formerly known as the Health Care Financing Administration. Medicare benefits are available to those who are 65 years of age or over, some disabled persons who are under 65 years of age, and those persons with end-stage kidney disease.

Though Medicare generally pays most of the costs of health care, there are some costs and medical services that are not covered by the program. Accordingly, private insurers offer supplemental insurance policies to cover the costs not subject to coverage under Medicare. These supplemental policies are formally referred to as "Medigap" policies, in reference to their function of filling the various gaps in Medicare coverage. There are 10 standardized Medigap plans offered by private insurers, each of which provides a different set of standard benefits.

The State Insurance Commissioner regulates the private insurance market with respect to the Medigap plans. However, state regulations must meet minimum standards established by the CMS and must be consistent with the pertinent federal law and regulations. The CMS has identified areas of state law regarding Medicare supplemental insurance that do not comply with federal requirements. Specifically, state law fails to regulate insurers regarding the issuance of Medigap policies to those persons whose supplemental plans have been discontinued or who have been terminated from an existing plan. Also, state law does not address certain issues relating to an insurer's consideration of an insured's pre-existing health conditions during the process of replacing one Medigap policy with another.

Complaint Procedures: The insurance code contains two separate sets of procedures by which health insurers are required to handle complaints from insureds. The original procedures, enacted in 1995, apply to both insureds health care providers. The more recent proce-

dures, enacted in 2000, apply only to insureds and consist of comprehensive rules that health insurers must follow regarding grievances received from insureds. The two sets of procedures are redundant and contain inconsistent provisions.

Annual Shareholder Meetings: An incorporated domestic insurer is required to hold its annual shareholder/member meeting in either January, February, March, or April.

Summary: Medigap Policies: Subject to certain conditions, an insurer cannot deny a Medicare supplement policy to an eligible person who has previously been enrolled in a specified supplemental plan that has been discontinued or terminated. To be eligible, the person must apply for the supplemental coverage from the insurer not later than 63 days after the date the previous plan was discontinued. In issuing such a policy to an eligible person, an insurer must offer a price that does not discriminate against the insured due to health status or health history, and cannot exclude benefits due to any preexisting condition.

Medigap Coverage/Preexisting Conditions: Under certain circumstances, insurers are prohibited from limiting the coverage of an insured under a Medicare supplement replacement policy because of an insured's preexisting condition. This regulation applies only if the policy being replaced had been in effect for at least three months.

Complaint Procedures: Health insurers must handle complaints from insureds in accordance with the grievance procedures enacted in 2000. References to insureds are deleted from the 1995 complaint procedures statute, thus making that statute applicable only to complaints from health insurance providers.

Annual Meetings: The requirement that incorporated domestic insurers hold annual meetings of shareholders/members in specified months is eliminated. Annual shareholder meetings may be held at any time and place specified in the bylaws.

Citation Corrections: Statutory citations are corrected in laws pertaining to midwives.

Votes on Final Passage:

House 96 0

Senate 44 0

Effective: June 13, 2002

HB 2318
C 91 L 02

Allowing a designee to represent the insurance commissioner on the health care facilities authority.

By Representatives Cody, Campbell, Kenney and Edwards; by request of Insurance Commissioner.

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

Background: The Washington Health Care Facilities Authority was created to assist and encourage the construction of modern, well-equipped, and reasonably priced health care facilities. The authority is authorized to issue bonds for the construction, purchase, acquisition, rental, or lease of health care facilities by participants. The authority is made up of the Governor, who serves as chair, the lieutenant governor, the insurance commissioner, the secretary of health, and a member of the public appointed by the Governor. The Governor is authorized to designate an employee of his office to act on his behalf when the Governor is absent.

Summary: The insurance commissioner is also authorized to designate an employee to act on his behalf when the insurance commissioner is absent.

Votes on Final Passage:

House	97	0
Senate	48	0

Effective: June 13, 2002

HB 2320
C 75 L 02

Regarding campaign contributions.

By Representatives McDermott, Schmidt, Romero, McMorris, Santos, Miloscia, Kessler, Haigh and Edwards; by request of Public Disclosure Commission.

House Committee on State Government
Senate Committee on State & Local Government

Background: The Public Disclosure Act (PDA) was enacted following passage of Initiative 276 in 1972. Among the stated purposes of the legislation is an intent to make information on political campaign and lobbying contributions available to the public. With a few exceptions, the requirements of the initiative apply to all election campaigns. The Fair Campaign Practices Act was enacted as part of Initiative 134 in 1992. The latter initiative imposes campaign contribution limits on elections for state office. The Public Disclosure Commission (PDC) is responsible for enforcing the laws relating to personal financial affairs reporting, lobbyist reporting, campaign finance reporting, campaign contribution limits, and independent expenditure reporting.

The treasurer of a political campaign or committee is required to file a report with the PDC and the appropriate county elections officer listing the names of contributors and amounts contributed. Those who contribute \$25 or less do not need to be named. The reports are filed every Friday beginning on the first day of the month four months preceding the special or general election and ending on the day of the election.

The campaign finance reporting requirements enacted by the 1972 initiative apply to all elections, state and local. However, the campaign contribution limits enacted in the 1992 initiative and codified in RCW 42.17.640 apply only to elections for state office. Included in the 1992 initiative were definitions for "general election" and "primary election" that refer to the election or nomination of a person for state office. These definitions were intended to apply only to those sections of law enacted by that initiative, which only applied to campaign contribution limits on elections for state office. However, as codified in Chapter 42.17 RCW, the definitions could be interpreted to apply to the entire PDA, including those sections that apply to local elections.

Summary: The due date for weekly reports of political contributions is moved from Friday to Monday.

The definitions of "general election" and "primary election" are restricted to refer only to the section of law (RCW 43.17.640) that imposes campaign contribution limits on elections for state office.

Votes on Final Passage:

House	97	0
Senate	47	0

Effective: June 13, 2002

ESHB 2323
C 301 L 02

Creating the direct retail license for commercial fishers.

By House Committee on Natural Resources (originally sponsored by Representatives Hatfield, Buck, Doumit and Linville).

House Committee on Natural Resources
House Committee on Appropriations
Senate Committee on Natural Resources, Parks & Shorelines
Senate Committee on Ways & Means

Background: Individuals possessing a Washington commercial fishing license are allowed to sell their catch or harvest only to a licensed wholesale fish dealer. Commercial fishers wishing to sell their catch to someone other than a licensed wholesale fish dealer must obtain a wholesale fish dealer's license from the Department of Fish and Wildlife.

A wholesale license is required for any business engaging in the commercial processing of food fish or

shellfish; any business engaging in the buying, selling, or brokering of food fish or shellfish; any business commercially manufacturing byproducts of food fish or shellfish; and any commercial fisher selling his or her catch or harvest to someone other than a licensed wholesale dealer. Wholesale dealers are responsible for documenting the commercial harvest of food fish and shellfish.

The department is required by statute to charge \$250 for an annual wholesale fish dealers license and to require that the applicant execute a surety bond for between \$2,000 and \$50,000. The bond must be executed in favor of the department and is conditioned upon compliance with the rules of the department relating to accounting for the commercial harvest of food fish and shellfish.

In addition to the wholesale fish dealers license, any commercial fisher wishing to sell his or her catch directly to the retail market must also comply with all local health permitting and licensing requirements.

Summary: The Department of Fish and Wildlife is required to offer a direct retail endorsement. This endorsement serves as the single license necessary to permit the holder of a commercial fishing license to clean, dress, and sell his or her salmon or crab harvest directly to the retail market. The direct retail endorsement is offered as an addition to an underlying commercial fishing license, but it may not be transferred or assigned with the underlying license. Only one direct retail endorsement is necessary even if a fisher owns multiple commercial fishing licenses. The holder of the endorsement is responsible for documenting the commercial harvest of salmon and crab pursuant to wholesale fish dealer rules. The department may charge a reasonable fee to administer the direct retail endorsement.

Prior to issuing a direct retail endorsement, the department must receive from the applicant a letter from a local health department concerning whether the individual is in compliance with the health standards of that community and has paid any inspection fees, whether the individual is in compliance with any standards developed by the Board of Health, and whether the individual is in possession of a valid food handlers card.

Counties and cities are prohibited from passing ordinances that require licenses or permits in addition to the direct retail endorsement for the retail sale of salmon and crab by licensed commercial fishers. However, the holder of a direct retail endorsement must notify a county prior to selling within its borders and open his or her facilities for inspection in that county. If the county finds a health violation it may assess a fine and suspend the endorsement for up to seven days.

The direct retail endorsement and underlying licenses are conditioned upon compliance with the requirements for the accounting of salmon and crab, the

payment of any fines, and compliance with the standards promulgated by the Board of Health. If the owner of a direct retail endorsement violates these rules, the department or a county prosecuting attorney may bring an action in superior court to seek suspension of the direct retail endorsement for up to five years. Suspension may not be sought for a direct retail endorsement holder who executes a surety bond in accordance with the requirements for a wholesale fish dealer. The privileges granted by the direct retail endorsement may be suspended for up to 120 days during prosecution unless the holder executes a surety bond.

Fish and Wildlife Code violations are updated to reflect the existence of the direct retail endorsement.

Votes on Final Passage:

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

Effective: July 1, 2002

ESHB 2325
C 217 L 02

Providing for donation and distribution of food.

By House Committee on Agriculture & Ecology (originally sponsored by Representatives Wood, Schoesler, Gombosky, Kessler, Linville, Kagi and Esser).

House Committee on Agriculture & Ecology
Senate Committee on Agriculture & International Trade

Background: The state's Good Samaritan Food Donation Act is intended to promote free food distribution to needy persons, prevent waste of food products, and provide liability protection for food donors. "Food" is defined in statute to include raw, cooked, processed, or prepared edible substances intended for human consumption. The act provides immunity from civil and criminal liability arising from the nature, age, packaging, or condition of apparently wholesome food or an apparently fit grocery product collected for donation or donated in good faith for ultimate distribution to needy individuals. This immunity applies to a "person" or a "gleaner" as defined by statute. The statutory immunity from civil and criminal liability for persons and gleaners donating food does not exist for an injury to or death of an ultimate user or recipient that results from an act or omission constituting gross negligence or intentional misconduct.

Summary: The state Board of Health is required to adopt rules for the safe receipt, preparation, and handling of donated food by December 31, 2004. The state Department of Health, in consultation with the State Board of Health, is required by December 31, 2004, to develop educational materials for donors containing recommended health and safety guidelines for preparation

and handling of donated food. Local health officers may grant variances to state food service rules regarding physical facilities, equipment standards, and food source requirements to facilitate distribution of donated food when no known or expected health hazard would exist as a result of the variance.

Votes on Final Passage:

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

Effective: June 13, 2002
 March 28, 2002 (Section 3)

ESHB 2326
PARTIAL VETO
 C 250 L 02

Establishing the Washington climate and rural energy development center.

By House Committee on Agriculture & Ecology (originally sponsored by Representatives Linville, Romero, Lantz, Rockefeller, Cooper, Hunt, Simpson, Kagi and Ruderman).

House Committee on Agriculture & Ecology
 House Committee on Appropriations
 Senate Committee on Environment, Energy & Water

Background: In 1990 the U.S. Congress passed the Global Change Research Act, establishing the U.S. Global Change Research Program (USGCRP) and directing federal research agencies to coordinate a comprehensive national research program to study human-induced and natural processes of global change. The 1990 federal law also required the USGCRP to submit to Congress a national assessment to include and evaluate:

- the USGCRP's findings and scientific uncertainties associated with these findings;
- global change effects on a variety of societal and environmental factors, including the natural environment, agriculture, energy production and use, land use and water resources, transportation, human health and welfare, human social systems, and biological diversity; and
- current global change trends, human-induced and natural, and projected major trends for the next 25-100 years.

A major component of the national assessment includes regional analyses involving workshops and assessments of potential consequences of climate change in a particular region. In 1997 a workshop was conducted for the Pacific Northwest Region or PNW (i.e., Washington, Oregon and Idaho). The PNW assessment is one of 18 regional assessments being conducted as part of the national assessment. The PNW assessment is to focus on the environmental and socioeconomic

impacts of climate change, including issues such as forestry, water, marine ecosystems, coasts, agriculture and health.

The PNW assessment includes a report from the Climate Impacts Group (CIG), which is a group of scientist and policy analysts at the University of Washington. The CIG report, titled the "Impacts of Climate Change Pacific Northwest," identifies some climate change impacts, describes the modeling process for projecting climate change trends, and provides some general recommendations for future study or action.

Summary: The Washington Climate and Rural Energy Development Center is created in the Washington State University energy program. The center is to serve as a central, impartial, non-regulatory, public source of credible information and services to address climate change and clean energy activities.

The center is assigned numerous duties. These duties include identifying key sectors that are likely to be affected by climate change, examining the feasibility of a carbon storage program, collecting scientific and technical data on climate change, and studying the effects of state action, before the federal government or other states act on Washington's competitive position with respect to other states.

The center must establish task forces and technical advisory committees, and the Legislature may appoint an oversight committee.

Votes on Final Passage:

House 62 36
 Senate 30 18

Effective: July 1, 2002

Partial Veto Summary: The Governor vetoed a section that: (1) outlined the duties of the Washington climate and rural energy development center; (2) required various state agencies and programs to assist with the duties of the center; (3) authorized the appointment of a legislative oversight committee; and (4) required the center to establish stakeholder comprised task forces and technical advisory committees.

VETO MESSAGE ON HB 2326-S

March 29, 2002

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. 2326 entitled:

“AN ACT Relating to the Washington climate and rural energy development center;”

This bill establishes the Washington Climate and Rural Energy Development Center in the Washington State University energy program. It designates that center as a clearinghouse of credible and reliable information regarding climate change and clean energy activities. Global warming and climate change are issues of profound importance, and I support this bill.

However, section 5 of the bill is unduly prescriptive and would have inhibited academic freedom. The Center will be funded

entirely by project grants and voluntary contributions. Accordingly, it is appropriate to provide the Center with flexibility in the kinds of grants it receives and activities it pursues.

Section 5 also would have mandated that certain state agencies provide assistance to the Center for its activities. However, the bill does not assign specific or measurable tasks to the agencies or provide funding for that assignment.

For these reasons, I have vetoed section 5 of Engrossed Substitute House Bill No. 2326.

With the exception of section 5, Engrossed Substitute House Bill No. 2326 is approved.

Respectfully submitted,

Gary Locke
Governor

HB 2332
PARTIAL VETO
C 185 L 02

Directing a statewide voter registration data base.

By Representatives Romero, McDermott, Schmidt, Woods, Ruderman, Miloscia, Esser and Kagi; by request of Secretary of State.

House Committee on State Government
House Committee on Appropriations
Senate Committee on State & Local Government

Background: County auditors are responsible for maintaining voter registration information in a computer file on magnetic tape or disk, punched cards, or some other form of data storage containing the records of all registered voters within their jurisdiction. The computer file contains each voter's name, date of birth, residence address, sex, date of registration, applicable taxing district and precinct codes, and the last five dates on which the individual voted. County auditors are to provide parts of this information to any person, upon written request, at cost.

County auditors are required to provide a computer tape or data file of the records of the registered voters in their counties to the Office of the Secretary of State. The Office of the Secretary of State provides a duplicate copy of this data to: (1) any political party organization or other individual making such request, at cost; (2) the Statute Law Committee, at no cost; and (3) the Department of Information Services for the purpose of creating the jury source list, at no cost.

While county auditors and the Office of the Secretary of State are required to furnish the voter registration information to any person or political party making a request, the use of this information is restricted. It may not be used for the purpose of mailing or delivering any advertisement or offer for any property, establishment, organization, product, or service or for the purpose of

mailing or delivering any solicitation for money, services, or anything of value. To do so is a felony punishable by imprisonment for up to five years and/or a fine of not more than \$10,000. Civil penalties apply as well. However, person who mails or delivers an advertisement, offer or solicitation for a political purpose is not liable provided he or she takes reasonable precautions to assure that the data is not used for anything other than political purposes.

Certain state agencies are required to provide voter registration services for employees and the public. The Secretary of State informs the public of the availability of voter registration and provides standard voter registration forms for use by these state agencies.

Institutions of higher education are required by federal law to provide voter registration services to students.

Summary: The Office of the Secretary of State, in conjunction with county auditors, will begin to create a statewide voter registration data base. The Office of the Secretary of State will identify a group of voter registration experts who will work on a design for the data base system. The data base will be designed to accomplish the following:

- identify duplicate voter registrations;
- identify suspected duplicate voters;
- screen against the Department of Corrections data base in order to cancel voter registrations of felons;
- provide current signatures of voters as a check for initiative signatures;
- provide a comparison between the voter registration data base and the Department of Licensing change of address data base;
- provide online access for county auditors for real time duplicate checking and update capabilities, provided sufficient funding is available;
- cancel voter registration for persons who have moved to other states and surrendered their Washington drivers' licenses; and
- ensure that counties maintain legal control of the registration records for that county.

The Office of the Secretary of State will report the findings of this group to the Legislature by February 1, 2003.

Institutions of higher education are required to set up an active prompt on its course registration web site or other web site actively used by students that will link the student to the Secretary of State's voter registration web site.

Votes on Final Passage:

House	98	0	
Senate	45	0	(Senate amended)
House	97	0	(House concurred)

Effective: June 13, 2002

Partial Veto Summary: The Governor vetoed the sections pertaining to the establishment of a group of voter

registration experts to work on designing a statewide voter registration data base. (These provisions were included in SB 6324, which become effective June 13, 2002.)

VETO MESSAGE ON HB 2332

March 27, 2002

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, 4 and 5, House Bill No. 2332 entitled:

“AN ACT Relating to a statewide voter registration data base;”

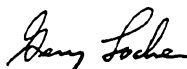
House Bill No. 2332 requires colleges and universities to place on their course registration web sites a link to the secretary of state's voter registration web site.

Sections 1, 2, 4 and 5 of this bill are identical to and duplicative of provisions of Senate Bill No. 6324, which I signed into law on March 12, 2002.

For these reasons, I have vetoed sections 1, 2, 4 and 5 of House Bill No. 2332.

With the exception of sections 1, 2, 4 and 5, House Bill No. 2332 is approved.

Respectfully submitted,



Gary Locke
Governor

2SHB 2338 C 290 L 02

Revising sentences for drug offenses.

By House Committee on Appropriations (originally sponsored by Representatives Kagi, Ballasiotes, O'Brien, Lantz, Dickerson, Linville, McIntire, Conway and Wood).

House Committee on Criminal Justice & Corrections
House Committee on Appropriations
Senate Committee on Judiciary
Senate Committee on Ways & Means

Background: Statistics from the Washington Sentencing Guidelines Commission show that 80 percent of Washington's incarcerated offenders were arrested for a drug offense or a crime that was a result of a chemical dependency. Most of these offenders are sentenced to a term of confinement in jail or prison while the remaining offenders are placed in alternative sentencing programs such as the state's Drug Offender Sentencing Alternative (DOSA) or a county-operated Drug Court.

The DOSA program authorizes a judge to waive imposition of an offender's prison sentence within the standard range. An offender participating in the DOSA program spends a portion of his or her sentence in prison and the remainder of his or her sentence in the commu-

nity while participating in a mandatory alcohol and substance abuse treatment program.

Drug Courts. Drug courts, unlike traditional courts, divert non-violent drug criminals into court-ordered treatment programs rather than jail or prison. The program allows defendants arrested for drug possession to choose an intensive, heavily supervised rehabilitation program in lieu of incarceration and a criminal record.

Counties are authorized to establish drug court programs, but are not required to establish minimum requirements for offenders participating in the program.

The term "drug court" is defined as a court that has special calendars or dockets designed to achieve a reduction in recidivism and substance abuse among nonviolent, substance-abusing offenders by increasing their likelihood for successful rehabilitation through early, continuous, and intense judicially supervised treatment; mandatory periodic drug testing; and the use of appropriate sanctions and other rehabilitation services.

Drug courts operate in approximately 12 counties throughout Washington.

Sentencing for Drug-related Crimes. A controlled substance is generally defined as a drug, substance, or immediate precursor that is included in the Uniform Controlled Substance Act and listed in various schedules with regard to its potential for abuse.

Generally, under the Uniform Controlled Substance Act, it is illegal for any person to possess, sell, manufacture, or deliver controlled substances. A person convicted of a controlled substance offense receives a sentence within the standard range for the offense which, under the Sentencing Reform Act (SRA), is calculated using the seriousness level of the current offense and the extent of the offender's criminal history. Most violations of the Uniform Controlled Substance Act are ranked from a seriousness level I to a level VIII depending upon the offense.

For example, the crime of manufacturing, delivering, or possessing with intent to deliver heroin or cocaine is a seriousness VIII felony offense. A first time offender convicted of this crime would generally receive a presumptive sentence range of 21 to 27 months in prison.

Sentencing Grid. The seriousness level ranking for all violations of the Uniform Controlled Substance Act, listed on the felony sentencing grid within the SRA, along with the presumptive sentencing range for a first time offender, are as follows:

Level X (Five years in prison)

- Manufacture of methamphetamine
- Over 18 and deliver heroin, methamphetamine, a narcotic from Schedule I or II, or flunitrazepam from Schedule IV to someone under 18.

Level IX (Three years in prison)

- Controlled Substance Homicide
- Over 18 and deliver narcotic from Schedule III, IV, or V or a non-narcotic, except flunitrazepam or

methamphetamine, from Schedule I-V to someone under 18 and three years junior.

Level VIII (Two years in prison)

- Deliver or possess with intent to deliver methamphetamine
- Manufacture, deliver, or possess with intent to deliver amphetamine
- Manufacture, deliver, or possess with intent to deliver heroin or cocaine
- Possession of Ephedrine, Pseudoephedrine, or Anhydrous Ammonia with intent to manufacture methamphetamine
- Selling for profit (controlled or counterfeit) any controlled substance.

Level VII (18 months in prison)

- Involving a minor in drug dealing.

Level VI (13 months in prison)

- Manufacture, deliver, or possess with intent to deliver narcotics from Schedule I or II (except heroin or cocaine) or flunitrazepam from Schedule IV.

Level V (Nine months in jail)

Delivery of imitation controlled substance by person 18 or over to person under 18.

Level IV (Six months in jail)

- Manufacture, deliver, or possess with intent to deliver narcotics from Schedule III, IV, or V or non-narcotics from Schedule I-V (except marijuana, amphetamine, methamphetamines, or flunitrazepam).

Level III (Two months in jail)

- Delivery of a material in lieu of a controlled substance
- Maintaining a dwelling or place for controlled substances
- Manufacture, deliver, or possess with intent to deliver marijuana
- Manufacture, distribute, or possess with intent to distribute an imitation controlled substance
- Unlawful use of building for drug purposes.

Level II (Zero - 90 days in jail)

- Create, deliver, or possess a counterfeit controlled substance
- Possession of controlled substance that is either heroin or narcotics from Schedule I or II or flunitrazepam from Schedule IV
- Possession of phencyclidine (PCP).

Level I (Zero - 60 days in jail)

- Forged prescription
- Forged prescription for a controlled substance
- Possess controlled substance that is a Narcotic from Schedule III, IV, or V or Non-narcotic from Schedule I-V (except phencyclidine or flunitrazepam).

Scoring. In the case of multiple prior convictions for the purpose of computing an offender's score, if the present conviction is for a drug offense, an offender

receives three points for each adult prior felony drug conviction and two points for each juvenile drug offense.

Summary: The scoring process is revised and incarceration sentences are reduced for certain offenders convicted of heroin and cocaine drug offense, beginning on July 1, 2002. In addition, a new sentencing grid takes effect July 1, 2004, for the sole purpose of sentencing offenders convicted of drug crimes. A portion of the savings resulting from the combination of reduced sentences, the new drug sentencing grid, and the revised scoring process is redirected back to the community and the state to fund chemical dependency treatment and support services for drug offenders.

Drug Courts. Counties are required to establish minimum requirements for the participation of offenders in their county-operated drug court. The drug court may adopt local requirements that are more stringent; at a minimum, however, the requirements must include the following:

- The offender will benefit from substance abuse treatment;
- The offender has never been convicted of a serious violent or sex offense; and
- The offender is currently not charged or convicted of an offense that involves a firearm, a sex offense, a serious violent offense, or an offense that caused substantial or great bodily harm or death to another person.

By March 1, 2003, the Washington State Institute for Public Policy must report on the cost-effectiveness of existing drug courts in Washington and their impacts on reducing recidivism.

Sentencing for Drug-related Crimes. Effective for crimes committed on or after July 1, 2002, the seriousness level is decreased from a level VIII to a level VII for an offender convicted of a manufacturing, delivering, or possessing with intent to deliver heroin or cocaine when the offender does not have a previous criminal record that includes a sex or serious violent offense. A first time offender convicted of this crime would receive a presumptive sentence range of 15 to 20 months in prison.

Sentencing Grid. An offender convicted of a drug offense committed on or after July 1, 2004, receives a sentence that is calculated using a drug offense sentencing grid instead of the standard SRA sentencing grid for all felony violations. Violations of the Uniform Controlled Substance Act are ranked from a seriousness level I to a level III on the drug offense sentencing grid depending upon the offense.

The seriousness level ranking listed on the drug offense sentencing grid, along with the presumptive sentencing range and sentencing alternatives available for a first time offender with no prior criminal history, are as follows:

Level III (51-68 months in prison or DOSA)

- Any drug offense that involves a deadly weapon special verdict
- Manufacture of methamphetamine
- Over 18 and deliver heroin, methamphetamine, a narcotic from Schedule I or II, or flunitrazepam from Schedule IV to someone under 18
- Controlled Substance Homicide
- Over 18 and deliver narcotic from Schedule III, IV, or V or a nonnarcotic, except flunitrazepam or methamphetamine, from Schedule I-V to someone under 18 and three years junior
- Possession of Ephedrine, Pseudoephedrine, or Anhydrous Ammonia with intent to manufacture methamphetamine
- Selling for profit (controlled or counterfeit) any controlled substance
- Involving a minor in drug dealing
- Delivery of imitation controlled substance by person 18 or over to person under 18.

Level II (12 - 20 months in prison, Drug Court, or DOSA)

- Deliver or possess with intent to deliver methamphetamine
- Manufacture, deliver, or possess with intent to deliver amphetamine
- Manufacture, deliver, or possess with intent to deliver heroin or cocaine
- Manufacture, deliver, or possess with intent to deliver narcotics from Schedule I or II (except heroin or cocaine) or flunitrazepam from Schedule IV
- Manufacture, deliver, or possess with intent to deliver narcotics from Schedule III, IV, or V or non-narcotics from Schedule I-V (except marijuana, amphetamine, methamphetamines, or flunitrazepam)
- Delivery of a material in lieu of a controlled substance
- Maintaining a dwelling or place for controlled substances
- Manufacture, distribute, or possess with intent to distribute an imitation controlled substance
- Create, deliver, or possess a counterfeit controlled substance.

Level I (Zero - 6 months in jail or Drug Court)

- Manufacture, deliver, or possess with intent to deliver marijuana
- Possession of controlled substance that is either heroin or narcotics from Schedule I or II or flunitrazepam from Schedule IV
- Forged prescription
- Forged prescription for a controlled substance
- Possess controlled substance that is a Narcotic from Schedule III, IV, or V or Non-narcotic from Schedule I-V (except phencyclidine or flunitrazepam)
- Possession of phencyclidine (PCP).
- Unlawful use of a building for drug purposes.

The new drug offense sentencing grid does not include an entitlement for any defendant to a specific sanction, sentence option, or treatment. Any sentence imposed within the standard range under the drug offense sentencing grid is not appealable.

The Washington State Institute for Public Policy must evaluate the effectiveness of the drug offense sentencing grid in reducing recidivism and its financial impact. A preliminary report to the Legislature is due by December 1, 2007, and a final report is due by December 1, 2008.

Scoring. Triple and double scoring is eliminated for purposes of calculating an offender's score for a drug offense. All drug offenses are counted as one point for each prior adult drug conviction and 0.5 point for each prior juvenile drug conviction, with the exception of cases involving manufacturing methamphetamine and cases where the offender has a previous criminal history that includes a sex or serious violent offense.

In the case of multiple prior convictions for the purpose of computing an offender's score, if the present conviction is for a "manufacturing of methamphetamine" offense, an offender receives three points for each adult prior conviction involving "manufacturing of methamphetamine," and two points for each juvenile prior conviction involving a "manufacturing of methamphetamine" offense.

Joint Select Committee. A Joint Select Committee on the Drug Offense Sentencing Grid is established consisting of persons who represent the following: one member from each of the two largest caucuses of the Senate, appointed by the President of the Senate; one member from each of the two largest caucuses of the House of Representatives, appointed by the Speaker of the House; a superior court judge, selected by the Superior Court Judges Association; a prosecuting attorney, selected by the Washington Association of Prosecuting Attorneys; a member selected by the Washington State Bar Association, whose practice includes a significant amount of time devoted to criminal defense work; an elected sheriff or a police chief, selected by the Washington Association of Sheriffs and Police Chiefs; a representative from the Division of Alcohol and Substance Abuse (DASA) in the Department of Social and Health Services; a member of the Sentencing Guidelines Commission (SGC); a member of the Caseload Forecast Council; a representative from the Office of Financial Management (OFM); a representative from the Department of Corrections (DOC); a representative from the Washington State Association of Counties; a county chemical dependency treatment provider; and a representative from the Washington State Association of Drug Court Professionals. The chair and vice chair of the committee must be chosen by the members of the committee.

The committee must review and make recommendations by June 1, 2003, to the Legislature and the

Governor regarding the Drug Offense Sentencing Grid. In preparing the recommendations, the committee must:

- establish a methodology of determining the fiscal consequences to the state and local governments, including the calculation of savings to be dedicated to substance abuse treatment, resulting from the implementation of the grid and any recommended revisions to the grid;
- review and recommend any changes in the sentencing levels and penalties in the drug sentencing grid;
- consider the proportionality of sentencing based on the quantity of controlled substances;
- examine methods for addressing issues of racial disproportionality in sentencing;
- recommend a statewide method of evaluating the success of drug courts in terms of reducing recidivism and increasing the number of persons who participate in drug court programs and remain free of substance abuse;
- review and make any appropriate revisions in statewide criteria for funding substance abuse treatment programs for defendants and offenders; and
- review and make any recommendations for changes in the method of distributing funding for defendant and offender drug treatment programs.

The staff of the Legislature, the SGC, and the Caseload Forecast Council must provide support to the committee.

Non-legislative members of the committee must serve without compensation. Committee members will be reimbursed for travel expenses.

The committee expires December 31, 2003.

Savings for Treatment. A criminal justice treatment account is created in the state treasury. Revenues to the criminal justice treatment account consist of savings resulting from the reduced drug sentencing and any other revenues appropriated or deposited into the account. Funds in the account may be spent solely for substance abuse treatment and support services for offenders with a chemical dependency problem against whom charges are filed by a prosecuting attorney in Washington and for nonviolent offenders participating in drug courts. No more than 10 percent of the funds may be spent for support services.

The DOC, the SGC, the OFM, and the Caseload Forecast Council must develop a methodology for calculating the projected biennial savings resulting from the reduced seriousness level in drug sentencing. Savings must be projected for the fiscal biennium beginning on July 1, 2003, and for each biennium thereafter. By September 1, 2002, the proposed methodology must be submitted to the Governor and the appropriate committees of the Legislature. The methodology is deemed approved unless the Legislature enacts legislation to modify or reject the methodology.

In each biennial budget request, the DOC must use the approved methodology to calculate savings to the state general fund for the ensuing fiscal biennium resulting from reductions in drug offender sentencing. The department must report the dollar amount of the savings to the Office of the State Treasurer, the OFM, and the fiscal committees of the Legislature.

For the fiscal biennium beginning July 1, 2003, and each fiscal biennium thereafter, the treasurer must transfer 25 percent of the funds saved into the violence reduction and drug enforcement account to be used solely for providing drug and alcohol treatment services to offenders confined in a state correctional facility, who are receiving a reduced sentence under the new sentencing schemes and who have been assessed with an addiction or a substance abuse problem. Any remaining funds may be used to provide treatment to offenders confined in a state correctional facility who are assessed with an addiction or a substance abuse problem that contributed to the crime.

The remaining 75 percent of the savings amount reported for that biennium must be transferred into the criminal justice treatment account to be appropriated to the DASA. The amount of savings transferred to the criminal justice treatment account may not exceed a limit of \$8.25 million per fiscal year. Following the first fiscal year in which the amount of savings to be transferred equals or exceeds \$8.25 million, the limit will be increased on an annual basis by the implicit price deflator. Savings in excess of the criminal justice treatment account limit remain in the state general fund.

The DASA, serving as the fiscal agency, must distribute 70 percent of the amount of money transferred to them to counties based upon a formula that is established in consultation with a panel of people representing the following agencies: the DOC, the SGC, the Washington State Association of Counties, the Washington State Association of Drug Court Professionals, the Superior Court Judges' Association, the Washington Association of Prosecuting Attorneys, representatives of the criminal defense bar, representatives of substance abuse treatment providers, and any other person deemed by the division to be necessary. County and regional plans for the expenditure of funds must be submitted to and approved by the panel. The DASA is prohibited from utilizing criminal justice treatment account moneys for administrative expenses until July 1, 2004.

Thirty percent of the remaining funds appropriated to the DASA must be distributed as grants for the purpose of treating offenders against whom charges are filed by a county prosecuting attorney. The DASA must appoint a panel of representatives from the following agencies: Washington Association of Prosecuting Attorneys, the Washington Association of Sheriffs and Police Chiefs, the Superior Court Judges' Association, the Washington State Association of Drug Court Profes-

sionals, the Washington State Association of Counties, the Washington Defender's Association or the Washington Association of Criminal Defense Lawyers, the DOC, a substance abuse treatment provider, and the DASA. The panel must approve and award the grants to eligible counties or groups of counties that submit plans for the grant funds. The panel must attempt to ensure that treatment, as funded by the grants, is available to offenders statewide.

Counties are encouraged to consider regional agreements and submit regional plans for the efficient delivery of treatment. Each plan that is submitted by a county or group of counties must be submitted jointly by the county chemical dependency specialist, county prosecutor, county sheriff, county superior court, a substance abuse treatment provider appointed by the county legislative authority, a member of the criminal defense bar appointed by the county legislative authority, and a drug court professional if available.

Any funds received by a county or group of counties may be used to supplement and not supplant, other federal, state, and local funds used for substance abuse treatment.

An entitlement program is not created for any defendant sentenced under the Drug Grid.

Votes on Final Passage:

House 72 25
 Senate 36 11 (Senate amended)
 House 67 30 (House concurred)

Effective: June 13, 2002

April 1, 2002 (Sections 1, 4-6, 12, 13, 26, 27)

July 1, 2004 (Sections 7-11, 14-23)

July 1, 2002 (Sections 2, 3)

HB 2345

C 194 L 02

Allowing noninjury accidents to clear the roadway.

By Representatives Lovick, Delvin, O'Brien, Morell, Berkey, Casada, Conway and Wood.

House Committee on Transportation
 Senate Committee on Transportation

Background: Persons involved in noninjury accidents are required to stop the vehicles at the scene of the accident and to remain at the scene until all necessary information (name, address, insurance, driver's license) is exchanged. Failing to stop or comply with the information exchange is a gross misdemeanor.

In 2000 the Washington State Patrol partnered with the Department of Transportation and the Traffic Safety Commission to alleviate congestion by moving vehicles involved in noninjury accidents off the road as soon as possible. This program is known informally as the "steer it and clear it plan."

Summary: The "steer it and clear it plan" is codified.

Drivers involved in noninjury accidents are required to move the vehicles off the roadway or freeway as soon as possible. Drivers are required to remain at a suitable location until necessary information has been exchanged. Law enforcement or a representative of the Department of Transportation may have a vehicle, cargo, or debris removed from the roadway without incurring liability.

Votes on Final Passage:

House 84 14
 Senate 43 3

Effective: June 13, 2002

2SHB 2346

PARTIAL VETO

C 302 L 02

Updating the uniform parentage act.

By House Committee on Appropriations (originally sponsored by Representatives Darneille, Delvin and Dickerson; by request of Uniform Legislation Commission).

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

Background: The Uniform Parentage Act (UPA), developed by the National Conference of Commissioners on Uniform State Laws in 1973, creates procedures to identify parentage so that child support may be established.

Presumption of Paternity. To determine the existence of a father/child relationship, the UPA of 1973 creates a presumption of paternity. A man is presumed to be the father of a child if: (a) he and the child's mother are or were married and the child is born during the marriage or within a certain time after the marriage ends; (b) before the child's birth, he and the child's mother have attempted to marry each other and the child is born within a certain time after the termination of cohabitation; (c) after the child's birth, he and the child's mother have married, or attempted to marry, and either he acknowledged his paternity in writing or he consented to be named as the father on the birth certificate, or he is obligated to support the child under a written promise or court order; (d) he received the minor child into his home and openly treated the child as his own; (e) he signed a paternity affidavit or acknowledged paternity in writing; or (f) genetic testing shows a 98 percent or greater probability of paternity.

To establish paternity without a presumption or judicial process, a man may sign a paternity affidavit. Signing a paternity affidavit is equivalent to a legal finding of paternity if it is not rescinded or challenged within 60 days of filing it. After 60 days, the affidavit may be

challenged only on the basis of fraud, duress, or material mistake of fact.

Disestablishing Paternity. Any interested party, including the state, the child, the mother, or the man alleged to be the father, may bring an action at any time to establish paternity. However, a presumed father may bring an action to disestablish paternity only within a reasonable time after obtaining knowledge of relevant facts. Under case law, a presumed father may be precluded from disestablishing paternity for the purposes of legal rights and obligations if it is in the best interest of the child for the presumption of paternity to remain.

In any paternity action, the child must be made a party. If the child is a minor, the child must be represented by a guardian ad litem.

Blood or Genetic tests. The court may order the child, mother, or any alleged or presumed father to submit to blood or genetic tests. If a party requests additional blood or genetic tests, the requesting party must pay the full costs of the additional testing, unless the party is indigent and the initial lab recommends additional testing, or there is evidence that paternity is contrary to the initial test results.

Artificial Insemination. The UPA established procedures for parentage in cases of artificial insemination. When a woman is artificially inseminated with semen donated by a man not her husband, the husband is treated in law as the natural father if he consented to the procedure. The donor is not considered the father unless there is a written agreement stating otherwise.

Summary: The UPA of 1973 is repealed and the UPA of 2000 is adopted. The new UPA is significantly the same as the 1973 act, but it expands on the procedures for establishing paternity by:

- defining specific terms and distinguishing between a presumed, acknowledged, and adjudicated father;
- establishing specific rules and processes for adjudicating paternity;
- establishing a process for voluntary acknowledgment of paternity; and
- updating procedures for establishing paternity of children born by assisted reproduction.

Establishing and Disestablishing Paternity. To determine the existence of a father/child relationship, the new UPA distinguishes between a presumed father, an acknowledged father, and an adjudicated father.

The new UPA still recognizes all the ways a man can be a presumed father in the context of marriage. However, the new UPA removes the presumption of paternity if a man receives the child into his home and openly treats the child as his own. The new UPA also creates new procedures for genetic testing to rebut the presumption of paternity.

Generally, if there is a presumed father, a challenge to paternity must be commenced not later than two years after the child's birth. However, a proceeding may be

maintained at any time when: (1) the presumed father and mother neither cohabitated nor engaged in sexual intercourse with each other during the probable time of conception; and (2) the presumed father never openly treated the child as his own.

A court may deny genetic testing of the presumed father if the court determines, among other things, that it would be inequitable to disestablish paternity. In determining whether to deny genetic testing, the court must consider the best interest of the child and the following factors:

- the length of time between the proceeding to adjudicate parentage and the time that the presumed father received notice that he might not be the genetic father;
- the facts surrounding the presumed father's discovery of his possible nonpaternity;
- the nature of the father/child relationship;
- the age of the child;
- the harm to the child that may result if presumed paternity is successfully disproved;
- the relationship of the child to any alleged father;
- the extent to which the passage of time reduces the chances of establishing paternity of another man and a child support obligation for the child; and
- other factors that may affect the equities arising from the disruption of the father/child relationship or the chance of other harm to the child.

Acknowledged father. Much like a paternity affidavit, an acknowledgment of paternity under the new UPA is a nonjudicial method of establishing paternity. An unrescinded, unchallenged acknowledgment is equivalent to an adjudication of paternity. Under the new UPA, a man can be the acknowledged father if he and the mother sign an acknowledgment that the child is a result of their sexual intercourse. The new UPA also establishes additional information that must be stated in the acknowledgment.

An acknowledgment is void if it states that another man is the presumed father unless the presumed father files a denial of paternity in conjunction with the acknowledgment. A person who signed an acknowledgment or denial of paternity may rescind it by commencing a court proceeding within a certain time. After that, the person may challenge the acknowledgment only on the basis of fraud, duress, or material mistake of fact and only within two years after the acknowledgment is filed with the state registrar. The party seeking to rescind has the burden of proof.

If a child has an acknowledged or adjudicated father, a person, other than the child, may commence an action to adjudicate paternity no later than two years after the effective date of the acknowledgment or adjudication.

Under the new UPA, the child is no longer required to be made a party to the proceeding. If a child does not have a presumed, acknowledged, or adjudicated father, a

proceeding to adjudicate parentage may be commenced at any time during the child's life.

Genetic Testing. There is a legal presumption that a man is the genetic father if testing shows that the man has at least a 99 percent probability of paternity. The paternity of a child who has a presumed, acknowledged, or adjudicated father may be disproved only by admissible results of genetic testing. If an individual whose paternity is being determined declines to submit to genetic testing as ordered by the court, the court may, on that basis, adjudicate that person as the parent.

The court or agency may not order in-utero testing of a child before birth. Testing must be the type reasonably relied upon by experts in the field and performed in an accredited testing laboratory. The new UPA establishes other procedures regarding genetic testing. If a testing specimen of the alleged father is not available, the court for good cause and under just circumstances may order the man's relatives to submit specimens to be tested.

It is a gross misdemeanor if a person intentionally releases an identifiable specimen for any purpose other than that relevant to the paternity proceeding without a court order or the written permission of the person who furnished the specimen.

Assisted Reproduction (AR). Procedures for determining parentage in situations of assisted reproduction are established. If a husband consents to AR by his wife, he is the father of the resulting child. If a marriage is dissolved before placement of eggs, sperm, or embryo, the former spouse is not the parent unless he consents in a record to be the parent if AR occurs after dissolution. The consent of the former spouse to AR may be revoked by that person in a record at any time before placement. Likewise, if a spouse dies before placement of eggs, sperm, or embryo, the deceased spouse is not a parent of the resulting child unless he consented in a record to be the parent if AR occurred after death.

In cases where a woman gives birth to a child from an egg donated by another woman, the woman giving birth is presumed to be the mother unless otherwise agreed in writing by the egg donor and birth mother. In addition, the woman who donated her egg may be considered a parent of the resulting child if agreed in writing by the egg donor and the birth mother. The agreement and affidavit must be filed with the registrar of vital statistics, where it must be kept confidential and in a sealed file. The Department of Health must, upon request, issue a birth certificate for a child born as a result of assisted reproduction indicating the legal parentage of such child as intended by any agreement filed with the registrar of vital statistics.

Votes on Final Passage:

House	65	32	
Senate	49	0	(Senate amended)
House	66	28	(House concurred)

Effective: June 13, 2002

Partial Veto Summary: The Governor vetoed the section that delayed the effective date of the bill until July 1, 2002.

VETO MESSAGE ON HB 2346-S2

April 2, 2002

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 714, Second Substitute House Bill No. 2346 entitled:

"AN ACT Relating to the uniform parentage act;"

Second Substitute House Bill No. 2346 adopts the 2000 Uniform Parentage Act, to replace the old 1973 act. The new act streamlines procedures and cleans up complications that have arisen with changes in science and society over the past several years.

Two bills addressing determination of parentage passed the legislature this year. The other bill, Substitute Senate Bill No. 5433, which I signed on March 12, 2002, amended the same statutes that this bill repeals and becomes effective on June 13, 2002. Section 714 of this bill makes the act effective on July 1, 2002, about two weeks after SSB 5433. By vetoing the delayed effective date in section 714, both bills become effective on the same day, and we will avoid having the amendments in SSB 5433 become law for only a very short time. Potential for legal anomalies and confusion will be avoided.

For these reasons, I have vetoed section 714 of Second Substitute House Bill No. 2346.

With the exception of section 714, Second Substitute House Bill No. 2346 is approved.

Respectfully submitted,



Gary Locke
Governor

SHB 2347
C 198 L 02

Modifying the uniform interstate family support act.

By House Committee on Juvenile Justice & Family Law (originally sponsored by Representatives Darneille, Delvin and Dickerson; by request of Uniform Legislation Commission).

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

Background: The Uniform Interstate Family Support Act (UIFSA) addresses child support issues that arise when parties reside in different states. The act was drafted by the National Conference of Commissioners on Uniform State Laws in the early 1990s. Washington adopted the UIFSA by 1994.

In 1996 federal welfare reform legislation required states to enact the UIFSA and any recent amendments to the act. At the time, the most recent amendments were the commissioner's 1996 amendments, and Washington adopted these as required. In 2001 the Uniform Law

Commissioners adopted additional amendments to the act.

The UIFSA's purpose is to prevent multiple states from issuing competing child support orders for the same parties. The UIFSA contains procedures for:

- obtaining jurisdiction over a nonresident for a support order in Washington;
- enforcing a support order and income-withholding order issued from another state;
- registering an order issued from another state for enforcement purposes; and
- modifying an order issued from another state.

Obtaining Jurisdiction Over a Party. The UIFSA allows a state to obtain personal jurisdiction over a nonresident parent for the purposes of establishing, enforcing or modifying a support order or to determine paternity. Some of the ways personal jurisdiction may be established under UIFSA include when: (1) the nonresident is served in Washington or consents to jurisdiction; (2) the nonresident resided in Washington with the child; (3) the child resides in Washington as a result of the acts or directives of the nonresident; and (4) the child was conceived in Washington.

Continuing Exclusive Jurisdiction. Generally, the state that issues the support order (the "issuing state") has continuing, exclusive jurisdiction over the order: (1) as long as the state remains the residence of either parent or the child; or (2) until the parties consent to have another state modify the order and assume continuing, exclusive jurisdiction.

If there are multiple orders from multiple states, UIFSA creates procedures for a state court or support enforcement agency to determine which order is controlling and which state has continuing, exclusive jurisdiction.

Registering an Order for Modification and Enforcement. A support order issued from another state may be filed in Washington for enforcement purposes. The UIFSA establishes the notice that must be given to the parties, the registration process, and the defense that may be raised to contest the order or the registration. The court or agency must file the order as a foreign judgment.

After a support order issued from another state has been registered, Washington courts may modify that order if all the parties reside in Washington and the child does not reside in the issuing state. In that case, the issuing state would have lost its continuing exclusive jurisdiction.

Support Enforcement Agreements with Other Countries. Washington's support enforcement agency has international agreements with Canada, Mexico, New Zealand, United Kingdom, Germany, and a number of other countries.

Summary: In general, the 2001 amendments to UIFSA do the following:

- authorize the state to recognize support orders from foreign country jurisdictions if there is an agreement between the state and the country;
- update certain provisions to recognize the use of standard forms and electronic communications;
- clarify when a party may seek to modify an order registered in a state that is not the issuing state;
- allow the parties to voluntarily seek to have an order issued or modified in a state even if the parties do not reside in that state;
- clarify how to determine which order is controlling in cases of multiple orders from multiple states;
- clarify that a state obtaining jurisdiction over a person for support purposes does not automatically give that state jurisdiction over the person for other non-support issues;
- clarify that the local law of a responding state applies with regard to enforcement procedures and remedies; and
- fix the duration of a support order to the duration required under the law of the issuing state.

The act clarifies that the issuing state continues to have jurisdiction over the matter, absent specified reasons for its termination. The personal jurisdiction that is necessary to establish or enforce a support order persists as long as the order is in effect.

The modification provisions in UIFSA are clarified. A state may have personal jurisdiction over a nonresident for the purposes of establishing or enforcing a support order, but not necessarily to modify the order of a different state.

A state may continue to exercise jurisdiction over its order if the parties consent, even if all the parties have left the state. Likewise, under certain circumstances the parties may consent to have another state assume continuing, exclusive jurisdiction over an order and modify that order. The UIFSA is also clarified to provide that an issuing state may still be considered the parent's residence even if the parent was temporarily absent from the state.

Procedures are established for cases when two or more support orders exist and a party seeks to register an order for enforcement or modification. The party registering the order must provide a copy of all the other orders to the registering state, specify that the order to be registered is the controlling order, and specify the amount of consolidated unpaid support obligations, if any. In addition, Washington's support enforcement agency must make reasonable efforts to ensure that the support order it receives from another state is the controlling order.

The UIFSA explicitly provides that the law of the state that issued the controlling order is the law that applies to the consolidated unpaid obligations. That issuing state's law applies even if support orders from other states contributed to those past due obligations. In

addition, it is clarified that the law of the state that issued the controlling order governs the duration of the obligation.

Votes on Final Passage:

House 85 12
Senate 43 3

Effective: Six months after Congress authorizes or requires the states to adopt the 2001 amendments to the UIFSA.

HB 2352
C 332 L 02

Transferring risk management functions from the department of general administration to the office of financial management.

By Representatives Alexander, Lantz and Esser; by request of Governor Locke and Attorney General.

House Committee on State Government
Senate Committee on State & Local Government

Background: In 1977 the Legislature created the Risk Management Office within the Department of General Administration. The Risk Management Office was directed to develop policies and plans for self-insuring liabilities, funding tort claims on an actuarial basis, implementing a program of safety and loss control, and proposing legislative recommendations to carry out its mandate. Specifically, the Risk Management Office is to:

- identify liability and property risks that may have a significant economic impact on the state;
- evaluate risk in terms of the state's ability, as opposed to an individual agency's ability, to fund potential loss;
- eliminate or improve conditions and practices which contribute to loss;
- assume risks to the maximum extent practical;
- provide flexibility to meet the unique requirements of any state agency for insurance coverage or service;
- purchase commercial insurance under specified circumstances; and
- develop plans for the management and protection of the revenues and assets of the state.

In fiscal year 2001, state tort payouts reached an all-time high at over \$85 million. A Risk Management Task Force was convened by the Governor and the attorney general to recommend ways to improve the state's risk management program.

Summary: The powers, duties, and functions of state-wide risk management are transferred from the Department of General Administration (GA) to the Office of Financial Management (OFM), including all written materials, reports, documents, etc., relating to risk

management and all tangible property utilized by the Risk Management Office. All funds, credits, and other assets held by the Risk Management Office are assigned to the OFM. Any appropriations made in connection with the powers, duties, and functions transferred under this bill are transferred and credited to the OFM.

All employees of the Risk Management Office in the GA are transferred to the jurisdiction of the OFM. Civil service employees are transferred under the same terms under which they currently operate and without any loss of rights.

Rules developed by the Risk Management Office and any pending business are continued and acted upon by the OFM and any existing contracts and obligations remain in full force and are continued.

If apportionments of budgeted funds are required due to the transfer, the director of the OFM will certify the apportionments to the affected agencies, the State Auditor, and the State Treasurer who, in turn, will make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records.

Technical changes are made in the RCW to reflect this transfer. The Risk Management Office becomes the Risk Management Division and the risk management administration account is created in custody of the State Treasurer. Changes to the OFM's statutory authority are made for the purpose of the OFM performing the duties relating to risk management.

Directors or deputy directors of state agencies and presidents or vice-presidents of higher education institutions replace representatives of state agencies and higher education institutions on the Risk Management Advisory Committee. The director of the OFM or a designee serves as the chair of the Risk Management Advisory Committee.

The director of the OFM is given the power to adopt rules necessary to carry out the intent of the risk management program.

Votes on Final Passage:

House 97 0
Senate 45 0 (Senate amended)
House 94 0 (House concurred)

Effective: July 1, 2002

SHB 2357
C 218 L 02

Addressing community renewal.

By House Committee on Trade & Economic Development (originally sponsored by Representatives Veloria, Mulliken, Ogden, Fromhold, Upthegrove, Kessler, Schual-Berke, Conway and Kagi).

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

Background: Washington's urban renewal law was enacted in 1957. The state law is modeled after the federal urban renewal law of the late 1940s, and authorizes any city, town, or county (municipality) to improve and redevelop specific areas of the community by encouraging public-private partnerships for the redevelopment of blighted areas.

Prior to undertaking any activities under the state's urban renewal law, a municipality is required to adopt a resolution that declares and shows evidence that the proposed area is blighted, demonstrated by conditions such as poorly constructed buildings, faulty planning, lack of open spaces, deteriorated properties, an incompatible mix of uses, and improper utilization of land. The municipality is then required to develop a workable plan that outlines uses of public and private funds to eliminate or prevent the spread of blighted areas, steps to encourage the redevelopment of the blighted area, and activities that will achieve the goals of the workable plan. The proposed workable plan can be adopted after the legislative authority of the municipality provides public notice and holds a public hearing on the proposed workable plan.

Once adopted, a municipality is granted powers that include, but are not limited to the ability to: (1) install, construct, and reconstruct parks, streets, roads, public utilities or other facilities within the blighted area; (2) borrow or accept any form of financial assistance from the federal government, the state, county, or other public body, or from any public or private source; (3) contract with any public or private person for the purpose of carrying out the activities identified in the workable plan; (4) prepare plans for the relocation of persons displaced by activities identified in the workable plan; (5) acquire property through the eminent domain process; (6) sell, lease, or transfer the acquired property, for an amount that is not less than its fair value; and (7) issue tax-exempt, nonrecourse revenue bonds, that are backed by the revenues generated by the development to pay for the cost of public improvements in the blighted area. These bonds are not subject to the statutory or constitutional debt limits of the municipality.

Summary: The state's urban renewal law is revised to improve the ability of cities, towns, and counties (municipalities) to implement economic development projects in blighted areas.

Workable Plan. The elements of the workable plan for the redevelopment of a blighted area are expanded to include: (1) activities that are designed to reduce unemployment and poverty within the community renewal area by providing financial or technical assistance to a person or a public body that is used to create or retain jobs; and (2) the need for replacement housing to replace

housing that is lost due to community renewal activities in the blighted area.

A workable plan, that is required to be updated, must conform with the municipality's plans adopted under the state's Growth Management Act. In non-Growth Management Act municipalities the workable plan must be consistent with applicable planning statutes.

All obsolete language regarding the process to revise a workable plan is removed.

Community Renewal Powers. A municipality may elect to exercise community renewal powers in one of three ways: (1) by appointing a board or commission that shall include municipal officials and elected officials, selected by the mayor and approved by the governing body of the municipality; (2) by the local governing body of the municipality; or (3) by the board of a public corporation, commission, or authority, or a public facilities district, or a public port district, or a housing authority.

The state's community renewal powers are expanded to allow loans or grants to private persons or entities for the purpose of creating or retaining jobs, with a substantial number of such jobs being for persons of low income. A person of low income is defined as an individual with an annual income that does not exceed the higher of 80 percent of the statewide or county median income. The state's community renewal powers are further expanded to: (1) make payments, loans, or grants to, provide assistance to, and contract with existing or new owners or tenants of property in the community renewal area as compensation for any adverse impacts that may be caused by the implementation of the community renewal project; (2) contract with a person or public body to provide financial assistance to property owners and tenants to encourage them to relocate in the community renewal area after the community renewal plan is adopted; and (3) contract with a person or public body to assist in community renewal activities.

Acquisition/Disposition of Real Property. The property acquisition process is revised to allow a municipality to acquire real property for a community renewal project either (1) prior to the selection of a redeveloper, or (2) after the selection of a redeveloper.

Selection of Redeveloper. The municipality may select a redeveloper through the existing competitive bidding process or use the new direct negotiation process. Requests for proposals, through the direct negotiation process, are solicited by publishing a public notice once each week for three consecutive weeks in the legal newspaper of the municipality. The notice must identify the proposed area, the process used to evaluate qualifications of redevelopers and proposals that are submitted by redevelopers or any persons.

The municipality, after evaluation of the proposals, may negotiate with a single redeveloper or select two or more redevelopers to submit final proposals or submit

more detailed or revised proposals. If the municipality does not enter into a contract with the highest ranking proposal it may (1) enter into negotiations with the next highest ranking proposal, (2) solicit additional proposals using the competitive bidding process, or (3) dispose or retain the real property.

Disposition of Property. Any real property that is acquired as part of a community renewal plan may be sold, leased, or transferred, after approval by the legislative authority of the municipality, to a redeveloper for an amount determined as adequate consideration by the municipality, instead of at its fair value. In determining adequate consideration, the municipality may take into consideration the public benefits to be realized, including furthering the objectives of the community renewal plan.

A municipality is expressly authorized to enter into direct negotiation for the sale or lease of real property to a community-based development organization that is already carrying out, or approved to carry out, a development project in the community renewal area that is supported by federal funds. All covenants, restrictions, and waivers on the real property in the favor of the municipality are binding and enforceable against the person or their heirs or successors.

Bond Security – Excise Tax Increment Revenue. A municipality may pledge any excess local excise taxes generated by business activity within the boundaries of the community renewal area to pay for bonds issued to finance public improvements within a community renewal area. The excess local excise tax is based on an amount that is over and above the average of the annual local excise taxes collected for a 5-year period prior to establishment of the community renewal area.

Local Improvement Districts. A municipality may establish a local improvement district with a community renewal area, and levy special assessments, in annual installments not to exceed a 20-year period on all real property that benefitted from the local improvement. The annual assessment is used to pay off bonds issued to finance the local improvements.

The municipality must provide information to the owners of real property in the local improvement district stating that the actual assessment amount may vary from the estimates, but that the amount will not exceed the increased benefit to the real property.

Miscellaneous Provisions. A municipality may enter into an agreement with a public corporation, commission, and authority, or a housing authority, or a city or county public facilities district, or a port district to carry out community renewal activities.

A city or town may use the supplemental alternative public works contracting procedures for the design, construction, remodel, or alteration of a regional center funded in whole or in part by a public facilities district.

The term "urban renewal" is replaced with "community renewal" wherever it occurs.

Votes on Final Passage:

House	97	0	
Senate	42	1	(Senate amended)
House	94	0	(House concurred)

Effective: June 13, 2002

HB 2358

C 76 L 02

Revising provisions relating to annexation of unincorporated territory with boundaries contiguous to two municipal corporations.

By Representatives Upthegrove and Schual-Berke.

House Committee on Local Government & Housing
Senate Committee on State & Local Government

Background: Water-sewer districts, water districts, and sewer districts (districts) may annex territory that is in the county or in close proximity in another county. The annexation process is initiated with a petition signed by 10 percent of the registered voters who reside in the proposed district requesting a vote on the subject of annexation. If there are no voters residing in the district, the petition may be signed by the property owners of the majority of the acreage. The commissioners of the district must concur with the proposed annexation and then must submit the petition to the county legislative authority for an election on the proposed annexation.

The board of commissioners of a district may by resolution annex unincorporated territory within a district that is less than 100 acres, with at least 80 percent of the boundaries contiguous to the district. The effective date of such annexation must be 45 days after the initial resolution to allow residents of the proposed territory the opportunity to file a referendum petition for a vote on the issue. If the annexation is to be contested, the referendum must be signed by at least 10 percent of the registered voters in the proposed area. The annexation is deemed approved unless a majority of the voters vote in opposition to the annexation.

A municipal corporation (city, town, or water-sewer district) that provides water service may annex a parcel of unincorporated territory that: a) is less than 100 acres in size; and b) has at least 80 percent of the boundaries contiguous to two municipal corporations, one of which is a water-sewer district. The legislative authority of the annexing municipal corporation must pass a resolution stating the intent to annex, and have concurrence of a majority of the legislative authority of the other municipal corporation contiguous to the proposed area.

Summary: A municipal corporation providing sewer service is authorized to annex a parcel of unincorporated territory that is less than 100 acres and has at least 80 percent of its boundaries contiguous to two municipal corporations, one of which is a water-sewer district.

HB 2365

Votes on Final Passage:

House 97 0
Senate 46 0

Effective: June 13, 2002

HB 2365

C 303 L 02

Increasing the size of the state investment board.

By Representatives Cooper, Benson, Bush, Anderson, Mulliken, Delvin, Alexander, Talcott, Esser and Pearson; by request of State Treasurer and Superintendent of Public Instruction.

House Committee on Financial Institutions & Insurance
Senate Committee on Labor, Commerce & Financial Institutions

Background: The Legislature created the State Investment Board (SIB) in 1981 to administer public trust and retirement funds. There are 14 members that serve on the board: one active member of the Public Employees Retirement System; one active member of the Law Enforcement Officers and Firefighters Retirement System; one active member of the Teachers Retirement System; the State Treasurer; a member of the state House of Representatives; a member of the state Senate; a representative of retired state employees; the director of the Department of Labor and Industries; the director of the Department of Retirement Systems; and five nonvoting members with investment experience appointed by the SIB.

Washington law requires that the SIB establish investment policies and procedures that are designed to maximize return at a prudent level of risk. The SIB manages 31 funds which total approximately \$54 billion.

Summary: One member is added to the SIB, increasing total membership from 14 to 15. The new member must be an active member of the school employees' retirement system and will be appointed by the Superintendent of Public Instruction for a three year term, subject to confirmation by the Senate.

The quorum requirement is increased from five to six voting members.

Votes on Final Passage:

House 95 2
Senate 44 3

Effective: September 1, 2002

SHB 2366

PARTIAL VETO

C 358 L 02

Funding and authorizing expenditures of the secretary of state.

By House Committee on Appropriations (originally sponsored by Representatives Ogden, Woods, Romero, Skinner and Chase; by request of Secretary of State).

House Committee on State Government
House Committee on Appropriations
Senate Committee on State & Local Government

Background: Among the many programs under the jurisdiction of the Secretary of State are the Division of Archives and Records Management and the Oral History Program. The State Archivist is responsible for the preservation and destruction of public records. The purpose of the Oral History Program is to record and document oral histories of current and former members and staff of the Washington Legislature, current and former state government officials and personnel, and other citizens that have had an active role in Washington's political history.

In 1996 a law was passed authorizing the Secretary of State 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 variety of statutory provisions relating to ethics in public service were enacted in the 1994 Ethics in Public Service Act, including restrictions on mailings by legislators and limitations on gifts for state officials and employees. Public officials or an employee acting on the official's behalf may not solicit or accept contributions to public office funds during specified periods. The Legislative Ethics Board and the Executive Ethics Board enforce these provisions.

Summary: The Secretary of State may solicit gifts, grants, conveyances, bequests, and devises, of real or personal property, in trust or otherwise. Solicitation and receipt of gifts are limited solely for the purposes of: (1) conducting oral histories; (2) archival activities; and (3) international trade hosting and missions. Receipts from gifts must be deposited in the Secretary of State's revolving account, and expenditures from the account are managed by the Secretary of State and do not require legislative appropriation.

Explicit authority is added for the Secretary of State to fund oral history activities and for the State Archivist to solicit, accept, and expend donations for the archive program.

Persons soliciting or accepting contributions for the Secretary of State's revolving account are exempt from the prohibition on soliciting or accepting contributions

during the period that begins 30 days before and ends 30 days after a regular legislative session, or during a special session, and are not considered to be in violation of the Ethics in Public Service Act.

Votes on Final Passage:

House	98	0
Senate	44	4

Effective: June 13, 2002

Partial Veto Summary: The Governor vetoed the sections of the bill pertaining to soliciting and expending donated funds for international trade hosting and missions and creating an oral history, archives, and international trade account in the custody of the state treasurer. The related amendments to the Ethics in Public Service Act were also vetoed. (The bill, as signed, allows the Secretary of State to expend funds from donations for oral history activities and authorizes the state archivist to solicit, accept, and expend donations for the purposes of the archive program.)

VETO MESSAGE ON HB 2366-S

April 4, 2002

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 6, Substitute House Bill No. 2366 entitled:

“AN ACT Relating to funding and expenditures of the secretary of state;”

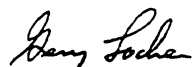
Current law authorizes the Office of the Secretary of State to accept private donations for its programs, subject to rules established by the Secretary and the appropriation process. I support those portions of this bill that clarify that donations received by the Secretary of State may be used to fund oral history and state archival activities.

However, neither the Constitution nor laws of the State of Washington assign the Secretary of State significant responsibilities in the area of international trade. It is neither necessary nor appropriate for the Secretary of State to solicit or accept donations, or maintain a dedicated account, for purposes of international trade hosting or missions. To expand the Secretary of State’s authority to those areas, as opposed to cross-cultural or goodwill programs, would create potential for inconsistency and conflict with the Office of Trade and Economic Development, the Department of Agriculture, the Office of International Relations and Protocol, the International Trade Office and other state agencies that do not report to the Secretary.

For these reasons, I have vetoed sections 1, 2, 5 and 6 of Substitute House Bill No. 2366.

With the exception of sections 1, 2, 5 and 6, Substitute House Bill No. 2366 is approved.

Respectfully submitted,



Gary Locke
Governor

HB 2370

C 9 L 02

Authorizing all counties to share county road engineering services.

By Representatives Schoesler, Cox, Eickmeyer, Ahern, Chandler, Mulliken and Haigh.

House Committee on Local Government & Housing
Senate Committee on State & Local Government

Background: The legislative authority of each county with a population of 8,000 or more must employ a full-time county road engineer. The legislative authority of each other county must employ an engineer either on a full-time or part-time basis or may contract with another county for the engineering services of a road engineer from such other county.

Summary: The requirement that each county with a population of 8,000 or more employ a full-time road engineer is eliminated. These counties must hire either a full-time or part-time road engineer or may contract with another county for engineering services.

Votes on Final Passage:

House	97	0
Senate	47	0

Effective: June 13, 2002

ESHB 2376

C 286 L 02

Concerning abandoned and derelict waterborne vessels.

By House Committee on Natural Resources (originally sponsored by Representatives Rockefeller, Doumit, Eickmeyer, Dickerson, Hunt, Lantz, Edwards, Romero, Haigh, McDermott and Jackley).

House Committee on Natural Resources
House Committee on Appropriations
Senate Committee on Natural Resources, Parks & Shorelines
Senate Committee on Ways & Means

Background: The Department of Natural Resources is charged with responsibility for managing the state’s aquatic lands. However, Washington does not have a comprehensive mechanism for addressing the problem of derelict or abandoned vessels in its waterways. As a result, the department must rely on cooperation by the vessel owners, unproven common law approaches such as trespass and nuisance actions, and uncertain federal actions.

Both the United States Coast Guard (USCG) and the Army Corps of Engineers (Corps) have federal authority to address derelict and abandoned vessels; but that authority is often constrained. The USCG is charged with addressing vessels that pose a substantial threat to

the environment or navigation channels. These problems are usually mitigated without removing and disposing of the vessel, and the USCG does not have authority to remove and dispose of a vessel once the immediate threat has been removed. Likewise, the Corps has authority to remove floating or sunken debris, but only if that debris is a hazard to navigation. This authority is usually used in federal, not state, waters.

The 2001 Washington Legislature passed legislation which addressed derelict vessels. This legislation authorizes the use of money in the state toxics account to be used to cleanup and dispose of hazardous substances on abandoned and derelict vessels. This legislation did not authorize expenditures from the state toxics account for the removal and disposal of the actual vessel.

Summary: An authorized public entity, which includes most public owners of aquatic lands and shorelines, has the discretionary authority to remove and destroy a vessel within its jurisdiction that has become abandoned or derelict. The Department of Natural Resources has an oversight and rulemaking role in the removal and disposal process. The department also has authority to remove any vessel within the jurisdiction of an authorized public entity that asks the department to act in its place. Likewise, an authorized public entity may request the department to allow it to remove a vessel within the department's jurisdiction.

Prior to taking action on a vessel, an authorized public entity must attempt to notify the vessel's owner of its intent to remove the vessel. Notice must be mailed to the last known address of any identifiable owners, posted clearly on the vessel, and printed in a newspaper in the county in which the vessel is located. All notices must include specified information, including the procedures that must be followed to reclaim possession of the vessel, possible financial liabilities, and the rights of the authorized public entity after custody of the vessel is claimed.

Once the authorized public entity takes custody of a vessel, the authorized public entity may use or dispose of the vessel in any environmentally sound manner. However, the authorized public entity must first attempt to derive some value from the vessel either in whole or scrap. If a value can be derived, then that amount will be subtracted from the financial liabilities of the owner. If the vessel has no salvageable value, then the authorized public entity must utilize the least costly disposal method.

The owner of a derelict or abandoned vessel is responsible for reimbursing the authorized public entity for all costs associated with the removal and disposal of the derelict or abandoned vessel. These costs include administrative costs and costs associated with any environmental damage caused by the vessel.

An owner seeking to redeem a vessel that is in the custody of an authorized public entity, or wishing to contest the amount of liability owed, must bring an action

within 20 days of custody of the vessel being taken. If a lawsuit is not commenced within 20 days, the right to a hearing will be deemed waived. If a vessel is impounded by a marina operator, the owner has 10 days to contest the impoundment.

The derelict vessel removal account is created. Expenditures from this account may only be used to reimburse authorized public entities for 75 percent of the costs associated with removing and disposing of abandoned or derelict vessels when the owner of the vessel is unknown or unable to pay. The authorized public entity may contribute its 25 percent of removal costs through in-kind services. Priority for use of the account's funds must be given to the removal of vessels that are in danger of breaking up, sinking, presenting environmental risks, or blocking navigation channels. Prioritization guidelines must be developed informally by the department.

The identification document required for a foreign vessel is raised from \$25 to \$30. The annual vessel registration fee is raised from \$10.50 to \$12.50. The additional revenue collected by these increases is specifically earmarked to be deposited into the derelict vessel removal account. If the balance in the derelict vessel removal account reaches \$1 million, the additional fees collected for the derelict vessel removal account will be suspended for at least one year.

Moorage facilities with abandoned vessels may still follow their existing procedures for removal. However, any profits from the sale of a vessel will lapse into the derelict vessel removal account, and the costs of removal of a vessel with an unidentified owner may be reimbursed out of the derelict vessel removal account. Also, any auctions of abandoned vessels may require a minimum bid or a letter of credit to assure that the future abandonment of the vessel is avoided.

Notes on Final Passage:

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

Effective: January 1, 2003

SHB 2379

C 170 L 02

Making it a crime to leave a child with a sex offender.

By House Committee on Criminal Justice & Corrections (originally sponsored by Representatives Dickerson, O'Brien, Tokuda, Veloria, Darneille, Chase, Kirby and Lovick).

House Committee on Criminal Justice & Corrections
Senate Committee on Judiciary

Background: A parent of a child, a person entrusted with the physical custody of a child or dependent person, or a person employed to provide a child or dependent

person the basic necessities of life, is guilty of criminal mistreatment in the first degree if he or she recklessly causes great bodily harm to a child by withholding the basic necessities of life. Criminal mistreatment in the first degree is a class B felony with a seriousness level of V.

Such a person is guilty of criminal mistreatment in the second degree if he or she recklessly creates an imminent and substantial risk of death or great bodily harm or causes substantial bodily harm by withholding the basic necessities of life. Criminal mistreatment in the second degree is a class C felony with a seriousness level of III.

Such a person is guilty of criminal mistreatment in the third degree if he or she, with criminal negligence, creates an imminent and substantial risk of substantial bodily harm by withholding the basic necessities of life or causes substantial bodily harm to a child or dependent person by withholding the basic necessities of life. Criminal mistreatment in the third degree is a gross misdemeanor.

Summary: A parent of a child, a person entrusted with the physical custody of a child, or a person employed to provide the child the basic necessities of life is guilty of leaving a child in the care of a sex offender if he or she leaves a child in the care or custody of another person who is not a parent, guardian, or lawful custodian of the child knowing that the person is a registered sex offender because of a sex offense against a child. Leaving a child in the care of a sex offender is a misdemeanor.

It is an affirmative defense to leaving a child in the care of a sex offender that the offender is allowed by court order to have unsupervised contact with children or is allowed to have unsupervised contact with the child in question pursuant to a family reunification plan.

Votes on Final Passage:

House	97	0	
Senate	46	0	(Senate amended)
House	94	0	(House concurred)

Effective: June 13, 2002

HB 2380
C 171 L 02

Changing provisions relating to children offenders.

By Representatives Dickerson, Eickmeyer, O'Brien, Kenney, Rockefeller, Ruderman, Kagi, Darneille, Tokuda, Chase, Lovick and Haigh.

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

Background: Generally, the juvenile court has jurisdiction over offenders under the age of 18. Offenders charged in juvenile court are usually not held in

detention pending the juvenile's trial or disposition unless certain circumstances apply.

The juvenile court must automatically decline jurisdiction over juveniles who are 16 or 17 years old and who commit certain violent felonies. Those offenders are tried as adults. In addition, the juvenile court has discretion to decline jurisdiction over other offenders, in which case the adult court asserts its jurisdiction.

Prior to 1997, juveniles convicted as adults ("youthful offenders") were not separated from adults in the correctional facility. In 1997 the Legislature amended the statute to require that offenders under the age of 18 who are convicted as adults and committed to an adult correctional facility must be separated from offenders 18 years and older, until the youthful offender reaches the age 18.

The Department of Corrections (DOC) must provide youthful offenders in the adult system education that will assist them in getting a high school diploma or a general equivalency degree (GED).

Summary: Changes are made to the statute governing detention for offenders under the juvenile court jurisdiction and to the statute governing youthful offenders convicted as adults.

Within available funds, a juvenile under juvenile court jurisdiction who has been found guilty of rape in the first or second degree or rape of a child in the first degree must be detained pending the juvenile's disposition.

A youthful offender in an adult correctional facility who has reached the age of 18 may remain in the separate housing unit for offenders under 18 if the secretary of the DOC determines that: (1) the offender's needs and correctional goals could continue to be better met by the programs and housing environment that is separate from offenders 18 years and older; and (2) the programs or housing environment for offenders under the age of 18 will not be substantially affected by the offender's continued placement.

The offender may remain placed in the housing unit until the secretary determines that the offender's needs and correctional goals are no longer better met in that environment, but in no case past the offender's twenty-first birthday.

Votes on Final Passage:

House	96	0	
Senate	45	0	(Senate amended)
House			(House refused to concur)
Senate	48	0	(Senate amended)
House	97	0	(House concurred)

Effective: March 27, 2002

SB 2381
 10 L 02

Addressing the trafficking of persons.

By House Committee on Criminal Justice & Corrections (originally sponsored by Representatives Veloria, Van Luven, Kenney, Dunshee, Romero, O'Brien, Darneille, Schual-Berke, Chase, Tokuda, Upthegrove, Edwards, Santos, Kagi and Haigh).

House Committee on Criminal Justice & Corrections
 Senate Committee on Judiciary

Background: *Trafficking of Persons.* 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. Over the last decade or so, however, persons from Germany and Russia have added to the market economy of trafficking.

Crime Victims Compensation. The Crime Victims Act of 1973 established Washington's Crime Victims' Compensation Program to provide benefits to innocent victims of criminal acts. Generally, persons injured by a criminal act in Washington, or their surviving spouses and dependents, are eligible to receive benefits under the program providing that:

- the criminal act for which compensation is being sought is punishable as a gross misdemeanor or felony;
- the crime was reported to law enforcement within one year of its occurrence or within one year from the time a report could reasonably have been made; and
- the application for crime victims' benefits is made within two years after the crime was reported to law enforcement or the rights of the beneficiaries or dependents accrued.

Criminal act is defined as: (1) an act committed or attempted in Washington, which is punishable as a felony or gross misdemeanor under the laws of Washington, (2) an act committed outside of Washington against a resident of Washington which would be compensable had it occurred inside the state, and the crime occurred in a state which does not have a crime victims compensation program, or (3) an act of terrorism.

Under the Crime Victims Act, claims are denied if the injury for which benefits are being sought was the result of "consent, provocation, or incitement" by the victim. Claims are also denied if the injury was

sustained while the victim was committing or attempting to commit a felony.

Summary: *Trafficking of Persons.* The Washington State Task Force Against the Trafficking of Persons is established. 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 must include nine members, selected by the director of the Office of Community Development, 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 must serve without compensation.

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 class, 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 must be chaired by the director of the Office of Community Development or the director's designee. Administrative and clerical support to the task force is provided by the Office of Community Development.

The task force must 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 expires March 1, 2003.

Crime Victims Compensation. The definition of criminal act is expanded to include acts that are punishable under federal law that are comparable to a felony or gross misdemeanor offense under the laws of Washington.

Votes on Final Passage:

House	98	0
Senate	43	0

Effective: June 13, 2002

SHB 2382

C 219 L 02

Revising provisions relating to criminal mistreatment.

By House Committee on Criminal Justice & Corrections (originally sponsored by Representatives Dickerson, O'Brien, Kagi, Darneille and Chase).

House Committee on Criminal Justice & Corrections
Senate Committee on Judiciary

Background: I. Criminal Mistreatment. A parent of a child, a person entrusted with the physical custody of a child or dependent person, or a person employed to provide a child or dependent person the basic necessities of life is guilty of criminal mistreatment in the first degree if he or she recklessly causes great bodily harm to a child by withholding the basic necessities of life. Criminal mistreatment in the first degree is a class B felony with a seriousness level of V.

Such a person is guilty of criminal mistreatment in the second degree if he or she recklessly creates an imminent and substantial risk of death or great bodily harm or causes substantial bodily harm by withholding the basic necessities of life. Criminal mistreatment in the second degree is a class C felony with a seriousness level of III.

Such a person is guilty of criminal mistreatment in the third degree if he or she, with criminal negligence, creates an imminent and substantial risk of substantial bodily harm by withholding the basic necessities of life or causes substantial bodily harm to a child or dependent person by withholding the basic necessities of life. Criminal mistreatment in the third degree is a gross misdemeanor.

For purposes of the criminal mistreatment laws, "basic necessities of life" means food, water, shelter, clothing, and medically necessary health care. "Bodily injury" means physical pain or injury, illness, or an impairment of physical condition.

II. Deferred Prosecutions. Any person charged with a non-felony offense in district court may petition for a deferred prosecution. In order to be eligible for a deferred prosecution, the defendant must allege that the criminal conduct in question resulted from alcoholism or drug addiction, that the conduct is likely to recur if the alcoholism or drug addiction is not treated, and that the alcoholism or drug addiction is amenable to treatment. The defendant must also waive the right to testify, call witnesses, have a speedy trial, and have a jury trial.

If a person is granted a deferred prosecution, he or she must successfully complete a court-ordered, two-year treatment program. Upon completion, the court will dismiss the charges. If a person is convicted of a similar offense that was committed while the defendant is on deferral status, the deferral is revoked and judgment is entered on the deferred charge.

Summary: I. Criminal Mistreatment. A parent of a child, a person entrusted with the physical custody of a child or dependent person, or a person employed to provide a child or dependent person the basic necessities of life is guilty of criminal mistreatment in the fourth degree (a misdemeanor) if he or she, with criminal negligence:

- creates an imminent and substantial risk of bodily injury to a child or dependent person by withholding the basic necessities of life; or
- causes bodily injury or extreme mental distress to a child or dependent person by withholding any of the basic necessities of life.

A peace officer has the authority to make a warrantless arrest of a person the officer has probable cause to believe is guilty of criminal mistreatment. When an officer arrests a person for criminal mistreatment of a child, the office must notify the Child Protective Services division of the Department of Social and Health Services (DSHS). When an officer arrests a person for criminal mistreatment of an adult, the officer must notify Adult Protective Services.

The DSHS, in consultation with the Attorney General and representatives of law enforcement agencies, must prepare a plan for improved coordination of services to families when a family member is charged with criminal mistreatment. The DSHS must regularly consult with the Legislature in the preparation of the plan, which must be submitted to the Governor and the Legislature by December 1, 2002.

II. Deferred Prosecution. A person charged with criminal mistreatment in the third degree or criminal mistreatment in the fourth degree is eligible for deferred prosecution only if the person alleges all of the following under oath that:

- the person is the natural or adoptive parent of the alleged victim.
- the wrongful conduct is the result of parenting problems for which the person is in need of services.
- the person is in need of child welfare services to improve his or her parenting skills.
- the person wants to correct his or her conduct to reduce the likelihood of harm to his or her children.
- the person may not be able to reduce the likelihood of harm to his or her children without child welfare services.
- the person has cooperated with the DSHS to develop a plan to receive appropriate child welfare services.
- the person agrees to pay the cost of the services if he or she is financially able.

The petition for deferral must contain a case history and a written service plan from the DSHS. The arraigning judge may refer the person to the DSHS for a diagnostic investigation and evaluation. The DSHS must conduct an investigation and examination to determine:

- whether the person suffers from the problem described;
- whether there is a probability that future misconduct will occur if no child welfare services are provided;
- whether long-term treatment is required;
- whether effective child welfare services are available; and
- whether the person is amenable to cooperation with child welfare services.

If the DSHS recommends a child welfare services plan, the plan must include the type, nature, and length of services along with their approximate cost. The services must be designed in a manner so that a parent who successfully completes the services will not be likely to withhold the basic necessities of life from his or her children. Child welfare services provided under a deferred prosecution do not affect the DSHS's ability to undertake proceedings under the statutory provisions dealing with child abuse.

When the court has received proof that the person has successfully completed the child welfare service plan, or if the victim has reached the age of majority and there are no other children in the home, the court must dismiss the charges. If the person's parental rights were terminated due to abuse or neglect of the child in question during the deferral period, the termination is per se evidence that the person did not complete the child welfare service plan.

Votes on Final Passage:

House	97	0	
Senate	47	0	(Senate amended)
House	94	0	(House concurred)

Effective: June 13, 2002

HB 2386
C 186 L 02

Classifying members of the Washington national guard and certain of their spouses and dependents as resident students.

By Representatives Simpson, Schmidt, Hurst, Benson, Haigh, Barlean, Conway, Bush, Delvin, Miloscia, Linville, Campbell, Talcott, Lovick, Dunn, Esser and Jackley.

House Committee on Higher Education
Senate Committee on Higher Education

Background: Some Washington National Guard personnel live in the neighboring states of Oregon and Idaho at the same time they are serving in Washington National Guard. Persons serving in the Washington National Guard who live outside of Washington are required to pay out-of-state tuition if they attend a school in Washington. The only military personnel who are exempted from the one-year residency requirement for in-state

tuition are active duty military personnel stationed in Washington. Their spouses and dependents may also qualify for in-state tuition.

The Washington Air National Guard has 92 members who reside in Idaho due to their civilian employment. The Washington National Guard offers them the opportunity to work in areas that may not be available in the Idaho Guard such as flying large cargo planes or refueling jets. According to the Washington National Guard, some guard members are interested in attending school in the Spokane and Pullman area but are deterred from doing so due to having to pay the out-of-state tuition rates. There are 22 national guard members who reside in Oregon.

There are a number of reasons why people who are in the Army or Air National Guard in Washington and reside elsewhere. Some National Guard members may have started their career with Washington and wish to stay in their respective unit and continue the job they are qualified for (and then they subsequently move to a neighboring state for their civilian employment). An example is a member moving from Washington to Portland, Oregon, due to civilian employment.

Also, the National Guard units in neighboring states may not be as conveniently located where the individual resides. For example, a member lives in Portland and the nearest unit for their occupational specialty is either in Burn, Oregon, or Vancouver, Washington. The Washington unit would be closer for them for weekend training and commuting. In addition, the Washington State National Guard offers opportunities that are not available in the other states such as the ability to use their expertise as pilots and fly for the Washington Air National Guard out of the Spokane unit.

Under the Border County Pilot Project enacted by the 1999 Legislature and modified by the 2001 Legislature, residents in several Oregon counties located near the border of Washington are eligible until June 30, 2002, to pay resident tuition at Clark College, Lower Columbia Community College, Grays Harbor Community College, and at the Washington State University branch campus in Vancouver.

Summary: A member of the Washington National Guard qualifies for in-state tuition rates without meeting the one-year residency requirement. A Washington National Guard member's spouse or dependent must reside within the state to qualify for in-state tuition rates.

Votes on Final Passage:

House	98	0	
Senate	44	0	(Senate amended)
House	93	1	(House concurred)

Effective: June 13, 2002
June 30, 2002 (Section 2)

HB 2397
C 220 L 02

Regulating organic food products.

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

House Committee on Agriculture & Ecology
Senate Committee on Agriculture & International Trade

Background: The U.S. Congress enacted The Organic Foods Production Act as part of the 1990 Farm Bill. This act established uniform national standards for the production and handling of foods labeled as "organic." It also authorized a U.S. Department of Agriculture national organic program to set national standards for the production, handling, and processing of organically grown agricultural products. The National Organic Standards Board was also created by the act. This board advises the Secretary of Agriculture in setting the national organic program standards. Producers who meet these standards may label their products as "USDA Certified Organic." The final national organic standards rule took effect on December 21, 2000. Those who grow or market "organic" products must comply with the rule by October 21, 2002.

The act permits the Secretary of Agriculture to allow each state to implement a state organic certification program for producers and handlers of agricultural products that have been produced using organic methods as provided for by the USDA. State standards may be more restrictive than the federal standards, but may not be less restrictive.

Washington adopted statewide organic standards in 1992. Any food labeled or represented as organic must be produced in accordance with the standards set by the Washington Department of Agriculture. The director of the department has the authority to establish a list of approved substances that may be used in organic food production. This list must approve the use of most natural substances and prohibit the use of most synthetic substances.

Summary: The director of the Washington Department of Agriculture must adopt the standards developed under the national organic program for food labeled, represented, or sold as organic. The authority for the department to develop standards independent of the federal standards is repealed. The intent and definition sections of the organic standards program are updated to reflect the national standards, and technical changes are made.

Votes on Final Passage:

House	97	0
Senate	48	0

Effective: June 13, 2002

EHB 2399
C 121 L 02

Modifying provisions concerning Class IV forest practices.

By Representatives Rockefeller, Doumit, Jackley, Chase, McDermott and Haigh; by request of Department of Natural Resources.

House Committee on Natural Resources
Senate Committee on Natural Resources, Parks & Shorelines

Background: The Board of Natural Resources is required to establish rules under the Forest Practices Act to govern different classes of forest practices. Class IV forest practices apply to lands that have been or are being converted to another use, lands that are not going to be reforested because of the likelihood that they will be converted to urban development in the future, lands contained within urban growth areas under certain circumstances, and forest practices which have a potential for substantial impact on the environment and require an environmental impact statement under the State Environmental Policy Act. In 1997 the Legislature granted cities and counties more authority over lands that are being converted out of forestry uses.

Each city and county is required to adopt ordinances or regulations setting standards for Class IV forest practices regulated by local government. They must include minimum standards for Class IV forest practices, necessary administrative provisions, and procedures for collection and administration of the necessary fees. The Class IV forest practices regulations are administered and enforced by the cities and counties that adopt the regulations.

The Department of Natural Resources continues to administer Class IV forest practices permits within a jurisdiction until it has determined that a city or county's forest practices meet or exceed the requirements of the state's Forest Practices Act and the administration of the rules under that act.

Cities and counties are required to adopt the ordinances or regulations pertaining to Class IV forest practices by December 31, 2001. Only four counties have been able to comply with this deadline. The Department of Natural Resources may provide technical assistance to cities and counties regarding Class IV forest practices until January 1, 2002.

Summary: The deadline for each county and city to adopt ordinances or regulations which set standards for Class IV forest practices regulated by a local government is extended from December 31, 2001, to December 31, 2005. The Department of Natural Resources may continue to provide technical assistance to cities and counties related to Class IV forest practices until January 1, 2006.

SHB 2400

Votes on Final Passage

House 96 0
Senate 47 0

Effective: June 13, 2002

SHB 2400

C 304 L 02

Allowing for the installation of recreational docks and mooring buoys by residential owners abutting state-owned aquatic lands.

By House Committee on Natural Resources (originally sponsored by Representatives Eickmeyer, Buck, Doumit, Sump, Jackley, Rockefeller, Dunn, McDermott and Haigh; by request of Department of Natural Resources).

House Committee on Natural Resources
Senate Committee on Natural Resources, Parks & Shorelines

Background: The Washington State Constitution declares that the beds and shores of all navigable waters in Washington are owned by the state. The Legislature subsequently designated the Department of Natural Resources (DNR) as the steward of these lands. The DNR acts as a proprietor, subject to legislative direction, of all state-owned aquatic lands and holds these lands in trust for all current and future residents of the state.

If a person owns a residence abutting state-owned navigable aquatic land, he or she may install and maintain a dock at no charge on the state-owned aquatic land. This privilege is allowed only for docks used exclusively for private recreational purposes and on areas not subject to prior rights. Permission to build a dock is subject to applicable local regulations. The DNR may revoke permission to maintain a dock if it is necessary to protect the waterward access or ingress of other landowners or the public health and safety. If permission is revoked by the DNR, the affected landowner may appeal the decision under the Administrative Procedures Act.

In the 2001 session, the Legislature added the right to maintain a mooring buoy at no cost. No-cost buoys may not be used for commercial, transient, or residential purposes and cannot be sold or leased separately from the upland residence. One buoy may be installed at no cost for each 100 feet of shoreline property owned. Permission to maintain a buoy is contingent on the boat or buoy not posing a hazard or obstruction to navigation or fishing and not causing habitat degradation. Revocation of buoy permission is accomplished the same way as it is for docks.

Summary: Permission for upland owners to construct a dock on state-owned aquatic land does not extend to docks used to moor commercial or residential boats. Docks cannot be sold or leased separately from the upland residence. Docks and buoys may not be placed in

areas that interfere with shorelands and tidelands leased by the Department of Natural Resources (DNR) to upland owners. Buoys may not be constructed in harbor areas. Buoys must be located as close as practical to the abutting upland residence, and must be relocated if necessary to accommodate lawfully installed buoys.

If more than one upland owner has a legitimate claim to a buoy site, the parties are authorized to seek a formal settlement through adjudication in a superior court. In this process, preference is given to the residential owner that first lawfully installed and maintained a buoy on that site, and then to the owners of the property nearest to that site. The DNR is not responsible for mediating or resolving disputes between upland owners.

If the DNR determines that a second buoy is necessary for secure moorage, it may authorize a second mooring buoy to be installed under the same conditions as the first, as long as it is used exclusively for a second mooring line for the boat attached to the first buoy.

Reasons that the DNR may seek removal of a buoy or dock are expanded to include avoidance of the decertification of shellfish beds.

Votes on Final Passage:

House 96 0
Senate 47 1

Effective: June 13, 2002

HB 2401

C 77 L 02

Reimbursing employees of the department of natural resources who are victims of assault.

By Representatives Doumit, Eickmeyer, Rockefeller, Sump, Jackley, Pearson, Ericksen, Hatfield, Chase, Edwards, McDermott and Haigh; by request of Department of Natural Resources.

House Committee on Natural Resources
Senate Committee on Human Services & Corrections

Background: Employees of the Department of Social and Health Services, the Department of Corrections, and the Department of Veterans Affairs, who are assaulted by offenders and sustain injuries which require the employees to miss days of work, are eligible for supplementary reimbursement from the state. The injury cannot be attributable to the employee's negligence, misconduct, or failure to comply with the rules of employment.

Employees who qualify for this reimbursement are eligible for their full salary minus any time loss payments received under industrial insurance. Sick leave for these employees is not reduced for the workdays that are missed. Reimbursement under this program may not exceed 365 consecutive days from the date of the injury.

Summary: Employees of the Department of Natural Resources, who have been assaulted by offenders and

sustain injuries which result in missed days of work, are eligible for reimbursement for some of their costs attributable to the assault under the same program that applies to employees of the Department of Social and Health Services, Department of Corrections, and Department of Veterans Affairs.

Votes on Final Passage:

House 98 0
Senate 48 0

Effective: June 13, 2002

2SHB 2403
PARTIAL VETO
C 356 L 02

Providing for collective bargaining at four-year institutions of higher education.

By House Committee on Appropriations (originally sponsored by Representatives Kenney, Conway, Veloria, Linville, Campbell, O'Brien, Fromhold, Lovick, Hunt, Hurst, Miloscia, Jackley, Kagi, Schual-Berke, Kessler, Gombosky, Berkey, Cody, Chase, Morris, Dickerson, Tokuda, Cooper, Darneille, Kirby, Upthegrove, Edwards, Romero, Santos, Lysen, Quall, McIntire, Wood, Haigh, McDermott, Simpson and Sullivan).

House Committee on Commerce & Labor
House Committee on Appropriations
Senate Committee on Labor, Commerce & Financial Institutions
Senate Committee on Ways & Means

Background: Although academic personnel at public institutions of higher education are state employees, they are exempt from the state civil service law. As a result, they are not covered by the state civil service collective bargaining law. A separate collective bargaining law specifically governs collective bargaining for community college faculty.

In 1977 the Public Employment Relations Commission (PERC) held that it did not have jurisdiction under the public employees' collective bargaining law over faculty collective bargaining at Eastern Washington University (EWU). This decision was upheld in Spokane County Superior Court. The court also found that the university's Board of Trustees had implied power, but not an obligation, to negotiate with its employees or their representatives over terms of employment. For a number of years, Eastern Washington University and its faculty have entered into voluntary collective bargaining agreements.

Summary: The boards of regents or trustees of the four-year public institutions of higher education and the exclusive bargaining representatives of their respective faculties have a mutual obligation to bargain in good

faith over wages, hours, and other terms and conditions of employment under a new collective bargaining law administered by the PERC. However, faculty members may not engage in collective bargaining until any existing faculty governance system is abolished. "Faculty" means employees who have faculty status or who perform faculty duties, but not certain employees, such as administrators, temporary employees, or graduate student employees.

Legislative Findings. The Legislature finds a public interest in developing cooperative labor relations within the public four-year institutions of higher education. The Legislature recognizes that shared governance between the administration and faculty is a long-accepted manner of governing public four-year institutions of higher education. However, collective bargaining can fill the same role and, therefore, faculty must choose between collective bargaining and faculty governance systems. The Legislature also recognizes the state's policy to encourage the pursuit of excellence in teaching, and requires all parties to endeavor to preserve academic freedom.

Subjects of Bargaining. Required subjects of collective bargaining include wages, hours, and other terms and conditions of employment, except that bargaining is prohibited over:

- the merits or organization of any activity or program established by law or employer resolution, except for the terms and conditions of employment for those employees affected by the activity or program;
- fees that are not a condition of employment; and
- student admission requirements, conditions for award of degrees, or the content or evaluation of courses and research programs.

The parties may, but are not required to, bargain criteria and standards for appointment, promotion, evaluation, and tenure of faculty.

Collective bargaining agreements may provide for arbitration of grievances. If an agreement between the same parties is concluded after the previous agreement expired, the new agreement may take effect the day after the old agreement expired.

If the parties are unable to settle unresolved matters, either party may request the assistance of the PERC.

Legislative Review. An agreement may not include compensation that exceeds the amount or percentage established by the Legislature in the appropriations act. The employer, however, may provide additional compensation. If a compensation provision is affected by subsequent modification of the appropriations act, both parties must enter into negotiations to arrive at a mutually agreed upon replacement for the affected provision.

Determining Bargaining Units and Exclusive Bargaining Representatives. Faculty members have the right to self-organization and to bargain collectively through exclusive bargaining representatives. However, they may not engage in bargaining until existing faculty

governance systems are abolished. Shared governance practices may be exercised so long as faculty engages in collective bargaining.

The PERC resolves disputes over membership in a bargaining unit. Only one bargaining unit is allowed for faculty at each institution of higher education, including the institution's branch campuses.

To certify an exclusive bargaining representative, the PERC must conduct an election or, under some circumstances, conduct a cross-check of membership records. Questions concerning representation may not be raised until one year after a certification is issued. If a collective bargaining agreement is in effect, questions concerning representation may be raised only within the period 60 to 90 days before the agreement expires, with some exceptions.

An employee organization seeking a certification election to determine the exclusive bargaining representative, or faculty seeking decertification, must show support of at least 30 percent of the faculty in the bargaining unit. Another employee organization may be listed on an election ballot if it shows support of at least 10 percent of the faculty in the bargaining unit. If an employer files a petition, it must demonstrate the good faith basis for the employer's claim that a question exists concerning representation of the faculty.

The representation election is determined by the majority of valid ballots cast. The employee organization representing a majority of faculty in the bargaining unit will be certified. An exclusive bargaining representative must represent all faculty in the bargaining unit without regard to membership in the organization.

Union Security Provisions. The exclusive bargaining representative has the right to have dues deducted from the salary of faculty members who file a voluntary written authorization with the employer. The authorization may not be irrevocable for more than one year. The employer must transmit the funds to the exclusive bargaining representative.

A collective bargaining agreement may include union security provisions, but not a closed shop. If a union security provision is included in the agreement, the employer must enforce the provision by making monthly dues deductions from the pay of bargaining unit faculty members.

Special provisions apply to faculty members who assert a right of nonassociation based on bona fide religious beliefs. These faculty members may pay dues to a nonreligious charity agreed upon by the faculty members and the exclusive bargaining representative.

Unfair Labor Practices. The employer may not:

- interfere with, restrain, or coerce faculty members exercising their rights;
- interfere with an employee organization;

- encourage or discourage union membership by discrimination in regard to hiring or other terms of employment;
- discriminate against a faculty member for filing charges or testifying on related matters; or
- refuse to bargain collectively with the faculty exclusive bargaining representative.
The employee organization may not:
 - restrain or coerce faculty members exercising their rights;
 - cause an employer to discriminate against a faculty member (to encourage or discourage union membership);
 - discriminate against a faculty member for filing charges or testifying on related matters; or
 - refuse to bargain collectively with the employer.

The PERC is authorized to prevent and determine unfair labor practices. Unfair labor practice complaints must be filed within six months after the event for which the complaint is brought.

Strikes and Lockouts. Both faculty strikes and employer lockouts are prohibited. Either party may request the superior court in the county in which the labor dispute exists to issue an appropriate order against either or both parties.

Rule-Making. The PERC may adopt rules to implement this new collective bargaining chapter.

Votes on Final Passage:

House	53	44	
Senate	27	22	(Senate amended)
House	52	45	(House concurred)

Effective: October 1, 2002

Partial Veto Summary: The Governor vetoed two sections that would have prohibited the faculty from exercising shared governance practices while engaging in collective bargaining.

VETO MESSAGE ON HB 2403-S2

April 4, 2002

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

Ladies and Gentlemen:

I am returning herewith, without my approval as to sections 2 and 5, Second Substitute House Bill No. 2403 entitled:

“AN ACT Relating to labor relations at the public four-year institutions of higher education;”

Second Substitute House Bill No. 2403 is an historic measure that will allow faculty at our four-year higher education institutions to collectively bargain, should they choose to do so. It establishes a process for elections, certification of bargaining units and the scope of bargaining.

Section 2 of the bill would have required faculty to choose between collective bargaining and shared faculty governance systems with respect to policies on academic and professional matters. Similarly, section 5, relating to the right to organize or refrain from organizing, would have provided that faculty members may not engage in collective bargaining until any existing faculty senate or council is abolished.

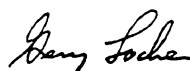
The functions of the faculty governance system and collective bargaining are separate and distinct. Faculty governance systems advise the universities on issues pertaining to curriculum development, content of courses and other issues that are prohibited subjects of collective bargaining under section 4 of this bill. Collective bargaining addresses issues such as wages and terms and conditions of employment. Neither system is equipped to fill the role of the other.

The right for faculty to collectively bargain is both implied and expressed in several provisions of this bill. Vetoing sections 2 and 5 will have no impact on that grant of right, and little impact on the overall framework set out by the bill.

For these reasons, I have vetoed sections 2 and 5 of Second Substitute House Bill No. 2403.

With the exception of sections 2 and 5, Second Substitute House Bill No. 2403 is approved.

Respectfully submitted,



Gary Locke
Governor

HB 2407
C 124 L 02

Establishing the authority to create and operate regional jails.

By Representatives Ballasiotes, O'Brien, Lovick, Hurst, Woods, Kagi and Haigh.

House Committee on Criminal Justice & Corrections
Senate Committee on Judiciary

Background: Any city, town, or county may build and operate a jail as long as that particular jail is located within the territorial boundaries of the county in which the city, town, or county is located. A jail includes any holding facility, detention facility, special detention facility, or correctional facility.

Under the Interlocal Cooperation Act, local governments and state agencies are authorized to enter into cooperative contracts for one public entity to provide a service, activity, or undertaking to the other public entity, if all parties to the contract possess the authority to provide the service, activity, or undertaking. Interlocal contracts for jail services may be made between a county and a city located within the boundaries of the county or among other counties.

Summary: Two or more local governments, or one or more local governments and the state, are authorized to create and operate regional jails. In addition, these regional jails may be operated by representatives from multiple jurisdictions as long as they comply with the Interlocal Cooperation Act.

Any prosecuting jurisdiction that confines a person in a county other than its own county must provide private telephone, video-conferencing, or in-person contact

between the defendant and his or her public defense counsel.

Votes on Final Passage:

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

Effective: June 13, 2002

SHB 2414
C 92 L 02

Changing provisions relating to the professional educator standards board.

By House Committee on Education (originally sponsored by Representatives Haigh, Anderson, Quall, Talcott, Tokuda, McIntire, Kenney, Chase and Schual-Berke; by request of Governor Locke, Superintendent of Public Instruction, State Board of Education and Professional Educator Standards Board).

House Committee on Education
Senate Committee on Education

Background: The 2000 Legislature created the Professional Educator Standards Board (PESB) to advise the State Board of Education and the Superintendent of Public Instruction (SPI) on educator preparation and certification issues. The PESB provides advice on educator recruitment, hiring, preparation, certification, mentoring and support, professional growth, retention, governance, assessment, and evaluation.

The PESB is also responsible for the development, pilot testing, and implementation of a basic skill assessment for students entering educator preparation programs and of subject matter assessments for new teachers. The board will make the subject matter assessments available for pilot testing and use by September 1, 2002. Beginning September 1, 2003, successful completion of the subject matter assessments will be required before new teachers may be endorsed to teach various subjects and grade levels.

The PESB is composed of 19 voting members who are appointed by the Governor and confirmed by the Senate. The SPI serves as a nonvoting member of the board. The voting members serve four year terms, and may serve for a maximum of two consecutive terms. The members also represent different types of educators and interests. Seven of the members are public school teachers and one member is a private school teacher. Four members are school administrators, three represent higher education, two are educational staff associates, one is a parent, and one is a member of the public.

In 2000 the Governor appointed the first members of the PESB to four year terms. The Senate has confirmed 18 of the board's initial appointees.

SHB 2415

Summary: Once the terms of the initial appointed members of the PESB expire or are vacated, the Governor will appoint the next set of members to one-year to four-year staggered terms. All terms thereafter will be four-year terms ending on June 30 of the applicable year. The Governor will try to stagger the terms so that the terms of members representing a specific group do not expire at the same time. Members cannot serve more than two consecutive full four-year terms.

The date by which new teachers must pass subject matter tests in order to be endorsed to teach particular subjects or grade levels is postponed from September 1, 2003, to September 1, 2005.

Votes on Final Passage:

House 97 0
Senate 47 0

Effective: June 13, 2002

SHB 2415 C 78 L 02

Changing qualifications for public school principals and vice principals.

By House Committee on Education (originally sponsored by Representatives Quall, Talcott, Haigh, Anderson, Rockefeller, Tokuda, Lantz, Romero, McIntire and Chase; by request of Governor Locke, Superintendent of Public Instruction, State Board of Education and Professional Educator Standards Board).

House Committee on Education
Senate Committee on Education

Background: The 1977 Legislature enacted a law that requires school districts to employ principals and vice-principals who hold valid teacher and administrator certificates.

The State Board of Education (SBE) adopts the rules governing the certification process for teachers and principals. Under SBE rules, in order to receive initial principal certification, a candidate must hold an approved master's degree, must have completed an approved principal preparation program, and must have previous teaching experience.

The teaching requirements for a candidate that entered a principal preparation program before August 31, 1998, are different from the rules for those who entered after that date. A candidate who entered a program before August 31, 1998, must have previously completed at least 180 days or their equivalent of teaching. The teaching experience could occur in school districts, state agencies, colleges or universities, or in the private school system. A candidate who entered a principal preparation program after August 31, 1998, must have previously completed at least three school years of full-time teaching in a public or private school.

Summary: School districts must hire principals and vice-principals who hold valid administrative certificates. In addition, these administrators must hold or have held either valid teacher or educational staff associate certificates. Persons with educational staff associate certificates must also have demonstrated successful school-based instructional experience. Persons whose certificates were revoked, suspended, or surrendered may not be employed as public school principals or vice-principals.

Votes on Final Passage:

House 97 0
Senate 46 0

Effective: June 13, 2002

HB 2421 C 172 L 02

Exempting from public inspection specified information on correctional facilities.

By Representatives Morell, O'Brien, Wood, Lovick, Armstrong, Boldt, Cox, Jackley, Kagi and Haigh.

House Committee on State Government
Senate Committee on Human Services & Corrections

Background: The Public Disclosure Act (PDA) requires all state and local agencies to make their records available for public inspection and copying, unless the record falls within a specified exemption.

Certain records relating to law enforcement agencies and penology agencies are exempt from public inspection and copying, such as:

- specific intelligence and investigative information compiled by investigative, law enforcement, and penology agencies, if non-disclosure is essential to law enforcement or the protection of a person's right to privacy;
- with some exceptions, information that reveals the identity of persons who file complaints with investigative, law enforcement, or penology agencies, if disclosure would endanger any person's life, physical safety, or property; and
- records relating to vulnerability assessments and response plans intended to prevent or mitigate criminal terrorist acts, if disclosure would likely threaten public safety.

The Department of Corrections is required to formulate written emergency procedures to respond to escapes, riots, rebellions, assaults, injuries, suicides, outbreaks of infectious disease, fires, acts of nature, and other major disturbances. The emergency plans must outline the responsibilities of jail facility staff, evacuation procedures, and placement of prisoners following their removal from a facility. There is no specific statutory exemption for these records.

Summary: Exempt from public inspection and copying are those portions of records containing specific and unique vulnerability assessments or specific and unique emergency and escape response plans of city, county, or state adult or juvenile correctional facilities, the disclosure of which would likely threaten the security of the facility or individual safety.

Votes on Final Passage:

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

Effective: June 13, 2002

HB 2425
C 242 L 02

Funding the community economic revitalization board.

By Representatives Doumit, Dunn, Hatfield, Veloria, Conway, Ogden, Rockefeller, Linville, Lantz, Kagi, McIntire, Haigh, Wood, Kessler, Kenney, Simpson, Jackley and Fromhold; by request of Governor Locke.

House Committee on Trade & Economic Development
House Committee on Capital Budget
Senate Committee on Economic Development & Telecommunications
Senate Committee on Ways & Means

Background: The Community Economic Revitalization Board (CERB) Program was created in 1982 to provide direct loans and grants to counties, cities, and special purpose districts for economic development-related infrastructure improvements. The CERB financing is available for public improvements that include the acquisition, construction, or repair of: domestic and industrial water, sewer, and storm water infrastructure; bridge, railroad, electricity, telecommunication, and road improvements; buildings and structures; port facilities; and feasibility studies. The CERB financing must be necessary to either bring a new business into the community or expand or retain an existing business that is already located in the community.

The Public Works Trust Fund (PWTF) Program was created in 1985 to provide loans to counties, cities, and certain special purpose districts, which do not include school and port districts, to improve existing public infrastructure. The PWTF loans are available for the planning, acquisition, construction, repair, reconstruction, replacement, rehabilitation, or improvement of streets and roads, bridges, water systems, or storm and sanitary sewage systems, and solid waste facilities, including recycling facilities. In order to qualify for financial assistance under the PWTF, the county, city, and special purpose district must: (1) impose an excise tax on the sale of real estate of at least one-quarter of 1 percent; (2) have developed a long-term plan for financ-

ing public works needs; and (3) be using all local revenue sources that are reasonably available for funding public works.

In 1991 the Legislature authorized the use of a limited amount of PWTF monies to be used for new public infrastructure improvements in timber-dependent communities. In 1995 the Legislature re-authorized the use of a limited amount of PWTF monies in timber-dependent communities and expanded its focus to include rural natural resource impact areas.

The state treasurer retains the interest earnings on all accounts, unless they are specifically exempted from this requirement or the account is allowed to retain a specified percentage of interest earnings. The repayments of loan principal and interest for both CERB and PWTF loans are placed into separate accounts in the state treasury (public facilities construction loan revolving account and the public works assistance account). The interest earned on these accounts, along with the interest earned from various other accounts, is deposited into the state general fund.

Summary: An ongoing source of funding is provided for the CERB by making transfers of repayments of principal and interest on loans made by the PWTF program under the timber and rural natural resources impact area programs and on interest earnings generated by the public facilities construction loan revolving account.

The state treasurer is required to annually transfer an amount equal to 12 to 22 percent of the repayment of principal and interest on loans made by the PWTF program, under the timber and rural natural resources impact area programs, into the public facilities construction loan revolving account. The transfer cannot exceed \$4.5 million per year and ends June 30, 2007.

Beginning July 1, 2004, the CERB program is authorized to retain 100 percent of the interest earnings on loan principal and interest repayments used to finance public facilities.

The CERB program must make at least 10 percent of its financial assistance available as grants to political subdivisions in any biennium.

Votes on Final Passage:

House	94	4	
Senate	47	0	(Senate amended)
House	89	8	(House concurred)

Effective: June 13, 2002

SHB 2426

C 127 L 02

Clarifying the nature of "acting for a commercial purpose" with respect to a natural resources violation.

By House Committee on Natural Resources (originally sponsored by Representatives Jackley, Sump, Rockefeller, Doumit, Pearson, Morell and Chase).

House Committee on Natural Resources
Senate Committee on Natural Resources, Parks & Shorelines

Background: The Fish and Wildlife Enforcement Code contains various commercial fishing violations. These violations include commercial fishing without a license, commercial fishing using unlawful gear, violations of commercial fishing areas or times, failure to report a commercial fish or shellfish harvest, and engaging in a commercial wildlife activity without a license.

To be held guilty for many of these crimes, the individual charged must be shown to be acting for commercial purposes. The code provides a list of actions that define when an individual is acting for commercial purposes. Under the code, if an individual acts with the intent to sell fish or wildlife, uses gear typical to that used in commercial fisheries, exceeds the personal use bag limit by more than three times, delivers fish or wildlife to a wholesaler, sells or deals in raw fur, performs taxidermy services for a fee, or takes fish using a vessel designated for a commercial fishery, then that person is deemed to be acting for commercial purposes.

In November of 2001, a Washington court of appeals found some elements of the commercial fishing violations unconstitutional. The court found the actions that define when an individual acts for commercial purposes creates an unconstitutional irrebuttable presumption that violates due process by preventing the defendant from arguing that he or she possessed fish or wildlife for non-commercial purposes.

Summary: For purposes of the Fish and Wildlife Enforcement Code, an individual is considered to be acting for commercial purposes if he or she engages in conduct that relates to commerce in fish and wildlife. This may include taking, delivering, selling, buying, or trading fish or wildlife when there is a present or future exchange of value. Evidence that a person acts for commercial purposes includes using gear typical in commercial fisheries, possessing more than three times his or her personal bag limit, delivering fish or wildlife to a wholesaler, taking fish or shellfish using a vessel designated for a commercial fishery, holding a commercial fishery license, dealing in raw fur, or performing taxidermy services for a fee.

Votes on Final Passage:

House 96 0
Senate 48 0

Effective: June 13, 2002

SHB 2432

C 221 L 02

Regulating driving abstracts furnished to transit agencies on vanpool drivers.

By House Committee on Transportation (originally sponsored by Representatives Lovick, Jarrett and Mitchell).

House Committee on Transportation
Senate Committee on Transportation

Background: A transit authority is not allowed to obtain certified abstracts of the driving records of volunteer vanpool drivers so that the transit authority can assess its insurance and risk management needs.

Summary: An employee or agent of a transit authority may obtain the certified abstract of the driving record of a volunteer vanpool driver. An insurance carrier who has motor vehicle or life insurance covering a person may also obtain the driving abstract of the person. Transit authorities are restricted from divulging any information contained in those abstracts to any third party.

Votes on Final Passage:

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

Effective: June 13, 2002

SHB 2435

C 222 L 02

Setting fees for the production of duplicate fish and wildlife license documents.

By House Committee on Natural Resources (originally sponsored by Representatives Jackley, Eickmeyer, Doumit, Buck, Rockefeller, Clements, Berkey and Orcutt; by request of Department of Fish and Wildlife).

House Committee on Natural Resources
Senate Committee on Natural Resources, Parks & Shorelines

Background: An individual must possess a license issued by the Department of Fish and Wildlife in order to lawfully hunt for most wild animals and to fish and harvest seaweed and shellfish. Licenses are also necessary in order to practice taxidermy for a profit, deal in raw furs, act as a fishing guide, operate a game farm, purchase or sell game fish, or use department-managed facilities.

The Fish and Wildlife Commission has the authority to adopt rules for the issuance of recreational licenses and the collection of fees. In March of 2001, the

department began issuing licenses and collecting fees through the Washington Interactive Licensing Database system. This is a computer-based system that replaced the paper system for license issuance.

If a license is lost or stolen a duplicate may be issued. The director of the department has authority to establish by rule the conditions for the issuance of duplicate licenses. By statute, the fee for a duplicate license is \$10 for those licenses that are \$10 or more, and equal to the value of the license for licenses that are less than \$10.

Summary: The director of the Department of Fish and Wildlife is authorized to establish fees for issuing duplicate licenses. The fee for a duplicate department license may not exceed the actual cost to the department for issuing the duplicate.

Votes on Final Passage:

House	97	0
Senate	49	0

Effective: June 13, 2002

SHB 2437
C 79 L 02

Promoting economic revitalization.

By House Committee on Trade & Economic Development (originally sponsored by Representatives Veloria, Talcott, Conway, Darneille, Dunn, Lovick, Chase, Wood, Jackley and Ogden).

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

Background: A sales tax is imposed on retail sales of most items of tangible personal property and some services. The state tax rate is 6.5 percent and is applied to the selling price of the article or service. In addition, local sales taxes apply. A use tax is imposed on the use of an item in this state, when the acquisition of the item has not been subject to the sales tax. The use tax is equal to the sales tax rate multiplied by the value of the property used. The total state and local sales or use tax rate is between 7 percent and 8.9 percent, depending on the jurisdiction.

Summary: The legislative authority of any city or town may authorize the use of the incremental increase of its local sales and use tax revenue to finance a community revitalization project that is located within the boundaries of a downtown or one or more neighborhood commercial districts. The incremental increase in a city or town's sales and use tax is based on the amount of increased taxable retail activity over the preceding year.

A city or town must designate the boundaries of each downtown or neighborhood commercial area before the use of local sales and use tax increment revenue. The city or town may pool the local sales and use tax incre-

ment revenue collected in the various designated downtown or neighborhood commercial areas to: (1) finance, in whole or in part, downtown or neighborhood commercial district community revitalization costs; (2) pay into a bond redemption fund to pay principal and interest on general obligation bonds or revenue bonds issued to finance a downtown or neighborhood commercial district community revitalization project; and (3) combine with any other public or private funds, available to the city or town, used to finance a community revitalization project.

A community revitalization project is defined to mean: (1) health and safety improvements; (2) publicly owned or leased facilities within the jurisdiction of the city or town; (3) project-related studies and analysis; (4) professional management, planning, and promotion within a downtown or neighborhood commercial district; (5) maintenance and security for common or public areas in the downtown or neighborhood commercial district; (6) historic preservation activities; and (7) project design, planning, land acquisition, construction, reconstruction, rehabilitation, improvement, operation, and installation of a public facility.

The Department of Revenue may provide advice or other assistance to cities and towns to assist them in determining the amount of local sales and use tax increment revenue that is generated in a downtown or neighborhood commercial area.

Votes on Final Passage:

House	90	7
Senate	42	0

Effective: June 13, 2002

HB 2438
C 80 L 02

Expanding the running start program to allow participation by The Evergreen State College.

By Representatives Kenney, Cox, Lantz, Jarrett, Quall, Haigh, Chase, Jackley, Darneille, Ogden and McIntire; by request of The Evergreen State College.

House Committee on Higher Education
Senate Committee on Higher Education

Background: The 1990 Legislature enacted the Running Start Program to give high school juniors and seniors the opportunity to take college courses for free at Washington's 34 community and technical colleges. This program allows qualifying students to earn college credits while they are in high school. In 1994 the Legislature expanded the program to include three state universities: Washington State University, Eastern Washington University, and Central Washington University. The expansion allowed greater access to the program for students

SHB 2441

in communities where no two-year colleges were available to directly serve them.

In 2000-2001 the Running Start Program completed its 11th year and enrolled 13,442 individual students (equal to 8,169 FTEs). Of that total, 3,017 students have earned high school diplomas and AA degrees simultaneously. Nine percent of high school juniors and seniors enrolled in at least one running start course last year. In 2000 running start students who attended community colleges had the following characteristics:

- 58 percent were female, 42 percent male;
- The average credit load taken by the students was 11-12 credits per quarter;
- 38 percent of the students worked part time;
- Almost 80 percent of the students were enrolled in academic courses (primary courses in social science, English, speech, and humanities); and
- 20 percent were enrolled in vocational courses.

Summary: The Evergreen State College is allowed to participate in the Running Start program if its governing board authorizes participation in the program.

Votes on Final Passage:

House	94	0
Senate	33	16

Effective: June 13, 2002

SHB 2441

C 192 L 02

Modifying the duties of the joint committee on energy supply.

By House Committee on Technology, Telecommunications & Energy (originally sponsored by Representatives Crouse, Morris, DeBolt, Wood, Berkey, Bush, Hunt, Ruderman, Delvin, Esser, Anderson and Pflug).

House Committee on Technology, Telecommunications & Energy

Senate Committee on Environment, Energy & Water

Background: The Joint Committee on Energy Supply is a legislative committee of eight members that only meets and functions during a declared energy supply alert or energy emergency. The Governor may initially declare an energy supply alert or energy emergency but must obtain approval of the joint committee for any extensions.

The committee meets to receive and review any plans proposed by the Governor for the production, allocation, and consumption of energy, any suspension or modification of existing Washington Administrative Code (WAC) rules, and any other relevant matters. The committee must send its recommendations, if any, to the Governor.

During an energy supply alert, the joint committee receives and may approve or disapprove a request from

the Governor for an extension of the alert for an additional 60 days.

During an energy emergency, the joint committee receives and may approve or disapprove a request from the Governor for an extension of the emergency for an additional 45 days.

In January 2001, Governor Locke declared an energy supply alert in response to the developing energy crisis. The declaration used state law provisions creating the Joint Committee on Energy Supply (formerly the Joint Committee on Energy and Utilities), for the first time since enacted in the 1970s. The Governor requested three 60-day extensions that continued through October 2001.

Summary: The Joint Committee on Energy Supply is authorized to meet annually or at the call of the chair to receive information on the status of the state's or the region's energy supply and may meet upon the call of the chair when the Governor acts to terminate an energy supply alert or energy emergency.

The length of extensions for an energy supply alert or energy emergency is modified. An energy supply alert may be extended up to 90 days for the first extension and up to 120 days for subsequent extensions. An energy emergency may be extended up to 45 days for the first extension and up to 60 days for subsequent extensions. The committee may approve a requested extension that is less than the maximum for a longer period of time up to the maximum but not a shorter time than requested.

The Governor must provide the joint committee with notice, if practicable, when considering an energy supply alert or an energy emergency declaration. The Governor must provide at least 14 days notice when requesting an extension, unless waived by the committee.

Votes on Final Passage:

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

Effective: June 13, 2002

HB 2444

C 223 L 02

Revising the regulation of adult family home providers and resident managers.

By Representatives Darneille, Campbell, Jarrett, Gombosky, Lovick, Ruderman, Pflug, Haigh and Kenney.

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

Background: Adult family home operators and resident managers must meet minimum education requirements

with a United States high school diploma or a general educational development certificate.

Summary: Adult family home operators and resident managers can meet minimum educational requirements with a United States high school diploma, general educational development certificate, or an English or translated government document from other enumerated official institutions in foreign countries.

An adult family home provider advisory committee is created to advise the Department of Social and Health Services on licensure issues. The registration program for adult family homes through the Department of Health is repealed.

Votes on Final Passage:

House	96	0	
Senate	47	0	(Senate amended)
House	97	0	(House concurred)

Effective: June 13, 2002
March 28, 2002 (Section 1)

SHB 2446
C 161 L 02

Setting time limits for review of water and sewer general comprehensive plans.

By House Committee on Local Government & Housing (originally sponsored by Representatives Miloscia, Mulliken, DeBolt and Dunshee).

House Committee on Local Government & Housing
Senate Committee on Environment, Energy & Water

Background: Districts providing water-sewer service must adopt a plan for the type of facilities the district proposes to provide and may either combine all services into a single general plan or prepare a separate general plan for each of these services.

Prior to the plan becoming effective, the general plan must be approved by any state agency whose approval may be required by applicable law. Also, amendments to, alterations of, or additions to the general plan requires the same approval process. This approval process applies to a city or town legislative authority only when an amendment, alteration, or addition to the general plan affects the particular city or town.

Summary: A water or sewer plan submitted- for review by a state agency must either be approved, conditionally approved, rejected, or have amendments requested within 90 days after submission. This time line may be extended another 90 days if insufficient time exists to adequately review the plan.

For rejections or extensions of the plan, the agency must give a reason in writing.

The governing body of any district submitting a plan may mutually agree with the agency reviewing the plan for an extension of the deadline.

Votes on Final Passage:

House	98	0	
Senate	49	0	(Senate amended)
House	94	0	(House concurred)

Effective: June 13, 2002

HB 2450
C 145 L 02

Updating the Washington trade center act to authorize electronic commerce activities.

By Representatives Hatfield, Dunshee, DeBolt, Jarrett and Anderson.

House Committee on Local Government & Housing
Senate Committee on Agriculture & International Trade

Background: The Port districts are authorized to establish trade centers. The Trade Center Act was created in 1989 to provide port districts and the Washington Public Ports Association (WPPA) with additional powers to provide trade centers and to promote and encourage trade, tourism, travel and economic development in a coordinated and efficient manner through the ports of the state. Specifically, port districts and the WPPA are given the power to operate and maintain all land or other property interests necessary to provide a trade center.

A trade center is a facility consisting of areas for centralized accommodation of public and private agencies, persons, and facilities in order to afford improved service to waterborne and airborne import and export trade and commerce and all the related functions and activities.

Additionally, port districts and the WPPA are authorized to cooperate and act jointly with other public and private agencies, including but not limited to the federal government, the state, other ports, other states, and private nonprofit trade promotion groups and associate development organizations.

Summary: This power to establish trade centers is expanded in two ways. First, ports may participate in transactions necessary to provide electronic or other facilities of a trade center or to exercise powers or purposes of a trade center. The term transaction is specifically defined as having the same meaning as in the Federal Electronic Signatures in Global and National Commerce Act (Title 15 U.S.C. Sec. 7006 (13)):

An action or set of actions relating to the conduct of business, consumer, or commercial affairs between two or more persons, including any of the following types of conduct:

(A) the sale, lease, exchange, licensing, or other disposition of (i) personal property, including goods and intangibles, (ii) services, and (iii) any combination thereof; and

(B) the sale, lease, exchange, or other disposition of any interest in real property, or any combination thereof.

Second, port districts and the WPPA are authorized to invest jointly with public and private agencies and persons, including but not limited to the federal government, the state, other ports and municipal corporations, other states and their political subdivisions, and private nonprofit trade promotion groups and associate development organizations.

Additionally, the term persons is specifically defined as having the same meaning as in the Federal Electronic Signatures in Global and National Commerce Act (Title 15 U.S.C. Sec 7006 (8)):

An individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, governmental agency, public corporation, or any other legal or commercial entity.

Votes on Final Passage:

House 96 0
Senate 44 0

Effective: June 13, 2002

ESHB 2451
PARTIAL VETO
C 359 L 02

Making supplemental transportation appropriations.

By House Committee on Transportation (originally sponsored by Representatives Fisher, Chase and Ogden; by request of Governor Locke).

House Committee on Transportation

Background: The transportation budget provides appropriations to the major transportation agencies: the Department of Transportation, the Washington State Patrol, the Department of Licensing, the Transportation Improvement Board, and the County Road Administration Board. It also provides appropriations out of transportation funds to many smaller agencies with transportation functions.

Summary: The 2001-03 transportation budget totaled \$3.403 billion. The supplemental budget revises the enacted 2001-03 transportation budget for changes in revenue forecasts (March 2001 vs. February 2002), technical adjustments, and emerging issues. The revised 2001-03 transportation budget provides \$4.170 billion in transportation funding. This includes \$800 million in bonds for the Tacoma Narrows bridge.

Votes on Final Passage:

House 87 10
Senate 48 0 (Senate amended)
House 93 5 (House concurred)

Effective: April 4, 2002

Partial Veto Summary: Governor's vetoes included the State Patrol cost allocation system, restrictions on HOV lanes in Clark County, and distributions of license permit and fee revenues which are already in current statutes.

VETO MESSAGE ON HB 2451-S

April 4, 2002

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 subsections 208(4) and 208(5), pages 9-10; 216(8), pages 17-18; and 404(5), page 34, Engrossed Substitute House Bill No. 2451 entitled:

“AN ACT Relating to transportation funding and appropriations;”

Subsections 208(4) and 208(5), pages 9-10 (Washington State Patrol—Support Services Bureau)

Subsections 4 and 5 of section 208 would have required the Washington State Patrol to contract with an independent consulting firm to develop a cost allocation system to qualify activities as 'highway purposes' under Article II, Section 40 of the State Constitution - the 18th amendment - and that such findings shall be utilized in the development of the agency's 2003-05 budget request. No additional funds were provided to conduct this study. In addition, the competitive selection of a consulting firm, familiarizing the contractor with agency programs, and the development of a cost allocation system would involve many agency staff members, and could not be done quickly. It is unlikely a thoughtful product could be developed within the time frame required in the proviso. While I have vetoed these subsections, I direct the Washington State Patrol to provide the Legislative Transportation Committee with an overview of its application of the constitutional limitations imposed on the spending of 18th amendment funds. This is of paramount importance in maintaining the integrity and sustainability of the Patrol's budget, given the large influx of one-time transportation funds to offset what had been omnibus appropriations.

Subsection 216(8), pages 17-18 (Department of Transportation—Improvements—Program I)

Subsection 216(8) would have prevented state investment in high-occupancy vehicle (HOV) lanes in Clark County until there are two and one-half times as many park and ride lot vehicle spaces as were in existence on January 1, 2002, or until the I-5 bridge is retrofitted to include four southbound general-purpose lanes. The provisions outlined in this subsection would unnecessarily limit the criteria by which decisions to move forward with future HOV lanes in Clark County should be made. The Department of Transportation (DOT) is currently conducting a pilot project in Clark County to evaluate the effectiveness of HOV lanes on Interstate 5. I have vetoed this subsection to provide the DOT, the City of Vancouver, and the Regional Transportation Council of Clark County the opportunity to consider the results of the pilot project and other factors, such as lane usage, before the decision to continue HOV lane projects in Clark County is made.

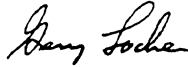
Subsection 404(5), page 34 (For the State Treasurer—Transfers)

Subsection 404(5) would provide the State Treasurer with the authority to distribute license, permit, and fee revenues from the Motor Vehicle Account to other accounts. The collection and distribution of these revenues, however, is already authorized in statute for the Department of Licensing and the Department of Transportation. This provision would have been in conflict with existing statutory direction.

For these reasons, I have vetoed subsections 208(4) and 208(5), pages 9-10; 216(8), pages 17-18; and 404(5), page 34 of Engrossed Substitute House Bill No. 2451.

With the exception of subsections 208(4) and 208(5), pages 9-10; 216(8), pages 17-18; and 404(5), page 34, Engrossed Substitute House Bill No. 2451 is approved.

Respectfully submitted,



Gary Locke
Governor

ESHB 2453

C 224 L 02

Protecting veterans' records.

By House Committee on State Government (originally sponsored by Representatives Bush, Haigh, Schmidt, Simpson, Conway, Reardon, Mielke, Wood, Talcott, Miloscia, Cairnes, McIntire, Campbell, Orcutt, Pflug, Cooper, Nixon, Jackley, Ahern, Rockefeller, Van Luven, Esser, Ogden and Woods).

House Committee on State Government
Senate Committee on State & Local Government

Background: Each state and local agency is required under the Open Public Records Act to make all public records available for public inspection and copying unless the record is exempted from disclosure. Examples of records exempted in statute include:

- 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.

Exemptions from disclosure do not apply if private or vital government information can be deleted from the public record or if disclosure is ordered by the Superior Court.

Summary: Veterans' discharge papers filed with county auditors after June 30, 2002, are no longer public records. Discharge papers filed with county auditors prior to June 30, 2002, that are not commingled with other records are exempt from disclosure.

Discharge papers filed prior to June 30, 2002, that are commingled with other records are exempt from disclosure if the veteran files a "request for exemption from public disclosure of discharge papers" with the county auditor. County auditors may charge a basic recording

fee and preservation fee, not to exceed \$7 in total, to veterans who file this request. The Washington State Department of Veterans Affairs, in consultation with the Washington State Association of County Auditors, will develop and distribute to county auditors the exemption form.

Non-public or exempted veterans' discharge papers may be released only to the veteran, the veteran's next of kin, a deceased veteran's properly appointed personal representative or executor, a person holding the veteran's general power of attorney, or anyone else designated in writing by the veteran to receive the records. County auditors will develop a form for requestors of military discharge papers to verify that the requestor is authorized to receive or view the military discharge papers.

Votes on Final Passage:

House	97	0	
Senate	49	0	(Senate amended)
House	94	0	(House concurred)

Effective: March 28, 2002 (Section 1)
June 13, 2002

SHB 2456

C 305 L 02

Modifying provisions relating to the linked deposit program.

By House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Kessler, Hankins, Cooper, Chase, Conway, Jackley, Voloria, Ogden, Kenney, McDermott and McIntire; by request of Department of Community, Trade, and Economic Development).

House Committee on Financial Institutions & Insurance
House Committee on Finance
Senate Committee on Labor, Commerce & Financial Institutions
Senate Committee on Ways & Means

Background: The State Treasurer limits the amount of funds that must be kept in demand deposits to the amount necessary for current operating expenses and to efficiently manage the treasury. Surplus funds not in demand deposits generally are held in certificates of deposit.

The linked deposit program was established in 1993 by the Legislature using surplus funds not required to be in demand deposits. Under that program, the treasurer deposits surplus state funds in public depositories as a certificate of deposit on the condition that the public depository make qualifying loans under the program. "Qualifying loans" are loans that are made to certain minority or women's business enterprises for a period not to exceed 10 years and at an interest rate that is at least 2 percentage points below the market rate that normally

would be charged for a loan of that type. Points or origination fees are limited to 1 percent of the loan principal. In turn, the bank or other public depository pays an interest rate on the certificate of deposit equal to 2 percent below the market rate for such certificates.

Recipients of loans under the linked deposit program must be certified as a minority or women's business enterprise by the Office of Minority and Women's Business Enterprises (OMWBE). Also, such loan recipients must meet the definition of "small business" as determined by the Department of Community, Trade, and Economic Development (the department).

The department is required to consult with the State Treasurer for the purpose of monitoring the performance of the program.

The treasurer may use up to \$50 million per year of surplus funds for deposit in the Linked Deposit Program.

The statutes authorizing the Linked Deposit Program are subject to repeal as of June 30, 2003, pursuant to current sunset provisions.

Summary: The business that receives a loan under the linked deposit program is no longer required to meet the statutory definition of "small business," but the requirement of certification by the OMWBE is retained. The loss of this certification requires that the lender reduce the loan amount by the amount of the outstanding balance (i.e., the lender may not provide any additional loan money to the recipient).

The OMWBE must compile data on the businesses that have received loans under the program, notify the treasurer of any businesses that lose certification, and provide an analysis of the decertification. This is to be done in consultation with the treasurer and the department.

The department, in consultation with the OMWBE, is required to monitor the performance of loans made under the linked deposit program and to develop indicators to measure job creation, job retention, and access to capital.

The linked deposit program's termination date is moved to June 30, 2008.

Votes on Final Passage:

House	98	0	
Senate	36	12	(Senate amended)
House	97	0	(House concurred)

Effective: June 13, 2002

SHB 2466

C 146 L 02

Revising the multiple-unit dwellings property tax exemption.

By House Committee on Finance (originally sponsored by Representatives Morell, Kirby, Edwards, Darneille, Van Luven, Anderson, Simpson, Talcott, Hunt, Esser, Ahern, Carrell, Jarrett, Bush, Boldt, Casada and Woods).

House Committee on Finance
Senate Committee on Ways & Means

Background: New, rehabilitated, or converted multifamily housing projects in targeted residential areas are eligible for a 10-year property tax exemption program. The program's purpose is to increase multifamily housing in urban centers.

The property tax exemption applies to the new housing construction and the increased value of the building due to rehabilitation made after the application for the tax exemption. The exemption does not apply to the land or the non-housing related improvements. If the property is removed from multifamily housing use before 10 years, then back taxes are recovered based on the difference between the taxes paid and taxes that would have been paid had the property not been put to multifamily use.

The property tax exemption program is limited to cities with a population of at least 50,000 and to the largest city or town within a county planning under the Growth Management Act. A targeted residential area must be located within an urban center, lack sufficient available, desirable, and convenient residential housing to meet public demand, and increase permanent residents in the area or achieve the planning goals of the Growth Management Act. The city is authorized to establish standards and guidelines for approving tax exemption applications by developers.

Taxing district property tax amounts that are imposed within the constitutional 1 percent rate limit are constrained by a limit on annual increases. Generally, these taxing districts may not increase the property tax amount by more than 1 percent without a public vote. However, the district may also increase the property tax amount by the value of new construction in the district multiplied by the preceding year's property tax rate.

Summary: The minimum population cap is reduced from 50,000 to 30,000 for the multifamily housing property tax exemption program.

When the property is no longer exempt, the cost of the rehabilitation or construction will be counted as new construction when calculating the maximum district property tax amount.

Cities may limit the tax exemption to individual dwelling units that meet the city guidelines for the pro-

gram when these units are separate for the purpose of property taxation.

Votes on Final Passage:

House	97	0
Senate	43	5

Effective: June 13, 2002

HB 2467
C 81 L 02

Modifying county treasurer provisions.

By Representatives Sullivan, Dunshee, DeBolt, Mulliken and Berkey.

House Committee on Local Government & Housing
Senate Committee on State & Local Government

Background: County treasurers are the custodians of all the moneys belonging to the county and the state until they are disbursed according to law. County treasurers act as the collector of all taxes upon real and personal property and also collect assessments and charges for special districts.

On the first day of each month, the county treasurer is required to distribute to each of the taxing districts the pro rata amount of money collected as consolidated tax payments during the previous month.

On or before the tenth day of the month, the county treasurer is required to distribute to the city treasurers the cities' pro rata share of taxes collected the previous month.

Summary: The county treasurer is required to distribute tax receipts on the first day of the month to those districts for which the county treasurer is the district treasurer. In addition, the county treasurer is required to distribute tax receipts on or before the tenth day of the month to those districts for which the county treasurer is not the district treasurer.

Votes on Final Passage:

House	94	0
Senate	49	0

Effective: June 13, 2002

SHB 2468
C 289 L 02

Facilitating the convicted offender DNA data base.

By House Committee on Criminal Justice & Corrections (originally sponsored by Representatives Miloscia, O'Brien and Wood; by request of Governor Locke).

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

Background: The Washington State Patrol operates and maintains a DNA identification system. The system contains DNA information on: (1) All adults convicted of felony sex offenses and felony violent offenses after July 1, 1990; (2) all juveniles convicted of such offenses after July 1, 1994; and (3) all persons incarcerated for such offenses as of July 25, 1999.

The county is responsible for collecting blood samples from offenders who serve their terms of confinement in a county facility. The Department of Corrections and the Department of Social and Health Services (Juvenile Rehabilitation Administration) are responsible for collecting blood samples from offenders who serve their terms of confinement in their respective facilities.

Blood samples must be used only for providing DNA or other blood grouping tests for identification analysis and prosecuting sex or violent offenses. The DNA identification data cannot be used for any purpose other than criminal investigation or improving the operation of the system.

Summary: The class of persons from whom DNA samples are taken is expanded to include persons convicted of:

- any felony;
- stalking;
- harassment; or
- communicating with a minor for immoral purposes.

Samples must also be taken from persons convicted before the effective date of the act who are still incarcerated as of the effective date of the act. The method of collecting the samples is no longer limited to drawing blood only.

A county or city is responsible for collecting samples from offenders who serve their terms of confinement in a county or city facility. The local police department or sheriff's office is responsible for collecting samples from individuals who do not serve any term of confinement.

The director of the Forensic Laboratory Services Bureau of the Washington State Patrol must perform the testing of the samples within available funding. Samples from persons convicted of felony sex offenses or felony violent offenses must be given priority. The samples may be retained by the bureau and may be submitted to the Federal Bureau of Investigation's combined DNA index system. The list of purposes for which the DNA information may be used is expanded to include the identification of human remains or missing persons.

The Washington State Patrol must consult with the Forensic Investigations Council when adopting rules to implement the DNA identification system. The rules must identify appropriate sources and collection methods for biological samples needed for purposes of DNA identification analysis.

No cause of action may be brought based on the non-collection of, non-analysis of, or delay in collecting the DNA samples. The detention, arrest, or conviction of a

ESHB 2470

person based on the DNA identification system is not invalidated because the DNA sample was in the system by mistake, or the conviction pursuant to which the sample was collected was overturned or altered.

An offender convicted of a felony must be assessed a fee of \$100 for the collection of a DNA sample, unless the court finds that the fee would result in undue hardship on the offender. The fee is a legal financial obligation and is payable only after payment of all other legal financial obligations in the sentence.

The DNA Data Base Account is created in the custody of the State Treasurer. The fees collected from convicted felons for the collection of DNA samples must be deposited in the account. Expenditures from the account may only be used for the creation, operation, and maintenance of the DNA data base. Only the chief of the Washington State Patrol may authorize expenditures from the account.

Votes on Final Passage:

House	97	0	
Senate	44	0	(Senate amended)
House	97	0	(House concurred)

Effective: July 1, 2002

ESHB 2470

C 82 L 02

Revising provisions for plumbing contractors.

By House Committee on Commerce & Labor (originally sponsored by Representatives Conway, Campbell, Cairnes, Cooper, Hunt, Hurst, Quall, Armstrong, Delvin, Tokuda and Kenney).

House Committee on Commerce & Labor
Senate Committee on Labor, Commerce & Financial Institutions

Background: The Department of Labor and Industries administers various state laws governing construction-related businesses and trades, including construction contracting and plumbing.

The plumbers' certification law requires those performing plumbing work to be certified by the department. Plumbers must meet certain experience and/or educational requirements and pass an examination to obtain the required certificate. Plumbing trainees must submit annual affidavits of experience listing their employers and the number of hours worked for each employer in the previous year.

The contractor registration law requires construction contractors to register with the department. Contractors also must meet certain requirements relating to registration, bonding and insurance, and notice to customers. The registration requirements do not apply to certified plumbers, unless they wish to advertise and bid for jobs.

Summary: Plumbing contractors are those who engage in, or who offer or advertise to engage in, plumbing work by way of trade or business. Plumbing contractors are prohibited from advertising, offering to do work, submitting a bid to do work, or performing plumbing work without being registered contractors.

Plumbing contractors must verify the hours worked by plumbing trainees and the proper supervision of such hours by certified plumbers. However, they are not required to identify which hours a trainee works with a specific plumber.

The Department of Labor and Industries may audit the records of a plumbing contractor that verified trainee hours if the department demonstrates a likelihood of excessive or improper hours being reported. The department must limit its audit to records necessary to verify hours. Information obtained from a plumbing contractor in an audit is confidential and not subject to public disclosure.

The department may issue a notice of infraction if a plumbing contractor is not a registered contractor. The department also may issue a notice of infraction under either the plumbing law or the contractor registration law if a plumbing contractor does not accurately verify trainee hours or if such hours were not properly supervised.

Votes on Final Passage:

House	98	0
Senate	37	9

Effective: June 13, 2002

HB 2471

C 83 L 02

Changing the methodology of determining the number of district court judges.

By Representatives Esser, Lantz and Casada; by request of Administrator for the Courts.

House Committee on Judiciary
Senate Committee on Judiciary

Background: The number of district court judges in each county is set by statute. A change in the number of full or part-time judges in a county must be made by the Legislature after receiving a recommendation from the Washington Supreme Court. The recommendation must be based on a weighted caseload analysis conducted by the Office of the Administrator for the Courts (OAC). The weighted caseload analysis must take into account a number of factors, including: the time that existing judges have available to hear cases; the judicial time needed to process various types of cases; and a determination of the amount of a judge's time that can be devoted exclusively to process cases.

Summary: The weighted caseload analysis used by the Washington Supreme Court to make recommendations regarding a change in the number of district court judges in a county is changed to an "objective workload analysis." The objective workload analysis must take into account available judicial resources and the caseload activity of the court.

Votes on Final Passage:

House	97	0
Senate	47	0

Effective: June 13, 2002

EHB 2491

C 135 L 02

Authorizing inspection of facilities used for temporary storage and processing of agricultural commodities.

By Representatives Chandler, Clements, Lisk, Skinner, Schoesler, Holmquist and Mulliken.

House Committee on Local Government & Housing
Senate Committee on Agriculture & International Trade

Background: The State Building Code comprises the Uniform Building Code, the Uniform Mechanical Code, the Uniform Fire Code, the Uniform Plumbing Code, and rules and regulations adopted by the Building Code Council establishing standards for making buildings accessible and usable by physically disabled persons.

Codes adopted by the State Building Code Council must be enforced by municipal and county governments. A local government may adopt a more stringent code and, with some exceptions, exclude specified classes or types of buildings or structures according to use from compliance with the code. For purposes of the Uniform Fire Code, fruits and vegetables stored in warehouses do not constitute combustible stock.

Summary: The State Building Code is amended to expressly state that local governments may inspect facilities that are used for temporary storage and processing of agricultural commodities.

Votes on Final Passage:

House	94	0
Senate	47	0

Effective: June 13, 2002

HB 2493

C 11 L 02

Removing the limitation on the number of volunteer fire fighters.

By Representatives Jackley, Mulliken, Dunshee, Ogden, Dunn, Wood and Casada.

House Committee on Local Government & Housing
Senate Committee on State & Local Government

Background: Municipalities must enroll their volunteer fire fighters in the Volunteer Firefighters Relief and Pension Fund (Fund). The Fund provides protection for all its fire fighters and their families from death, sickness, injury, or disability arising in the performance of their duties as fire fighters.

Municipalities also must limit the number of volunteer fire fighters to 25 per thousand population. The limit may be increased only by the number of fire fighters with emergency medical training for those departments that operate ambulance service.

Summary: The 25 per thousand population limit on the number of volunteer fire fighters is removed.

Votes on Final Passage:

House	97	0
Senate	47	0

Effective: June 13, 2002

SHB 2495

C 84 L 02

Updating outdated fire district statutes to increase efficiency.

By House Committee on Finance (originally sponsored by Representatives Mulliken, Dunshee, Edwards, Miloscia and Casada).

House Committee on Local Government & Housing
House Committee on Finance
Senate Committee on State & Local Government

Background: Fire districts are authorized an additional property tax up to 50 cents per thousand above the general levy for fire districts, provided that it will not affect the rates of other taxing districts or cause the combined levies to exceed the constitutional limit.

The board of fire commissioners of any fire protection district may choose to levy the additional 50 cent property tax within a county where a township has never been formed or where there are one or more townships in existence making annual tax levies and the townships are disorganized as a result of a county-wide disorganization procedure prescribed by statute and is no longer making any tax levy.

HB 2496

Summary: Fire districts that contract with another fire district that has at least one full-time, paid employee may choose to utilize the additional 50 cents per thousand property tax.

The fire district may utilize any part of the 50 cent levy if another taxing district agrees to release taxing units from their levies to the fire district.

Votes on Final Passage:

House	97	0
Senate	44	3

Effective: June 13, 2002

HB 2496

C 180 L 02

Modifying fire protection district tax provisions.

By Representatives Dunshee and Mulliken.

House Committee on Local Government & Housing
Senate Committee on State & Local Government
Senate Committee on Ways & Means

Background: The Washington State Constitution specifies that propositions to levy additional taxes for fire protection district operating purposes must be limited to a period of one year. Article VII, section 2 of the constitution requires the Legislature to affirm this taxing authority in statute.

Local fire protection districts submit levies for initial voter consideration at either a state primary or general election, or on other election dates as provided by law. Levies may only be for a single year. If the voters do not pass the levy request, the levy must be resubmitted.

Summary: Provisions are enacted to implement House Joint Resolution 4220, which changes restrictions on the number of years that excess levies may be made by fire protection districts. Fire protection districts, when specifically authorized to do so by a majority of at least three-fifths of the voters of the taxing district on the proposition (if the voter turnout equals at least 40 percent of the previous general election turnout), may levy an additional tax for a period of up to four years for general purposes and for a period of up to six years for the construction, modernization, or remodeling of facilities, as specified in the ballot proposition.

These provisions take effect January 1, 2003, if House Joint Resolution 4220 is approved by the voters at the next general election.

Votes on Final Passage:

House	98	0	
Senate	48	0	(Senate amended)
House	94	0	(House concurred)

Effective: January 1, 2003 (if HJR 4220 is approved by the voters at the next general election)

EHB 2496

C 306 L 02

Establishing a pilot program authorizing designation of industrial land banks outside urban growth areas under certain circumstances.

By Representatives Fromhold, Dunn, Jarrett, Ogden, Lovick, Dunshee, Schmidt, Conway, Linville, Miloscia and Anderson.

House Committee on Local Government & Housing
Senate Committee on State & Local Government

Background: Under the Growth Management Act (GMA), counties meeting specified growth criteria must satisfy specified planning requirements, including the adoption of comprehensive plans and designation of urban growth areas (UGAs) sufficient to permit the urban growth expected to occur over the next 20 years. A county that does not meet the criteria may choose to plan under the GMA. Currently 29 of Washington's 39 counties plan under the GMA.

Counties must encourage urban growth within UGAs and may allow growth outside UGAs if it is not urban in nature. The GMA contains several exceptions to the general prohibition against urban growth outside UGAs, including provisions for fully contained communities, master planned resorts, and specific major industrial developments under specified conditions. For a limited time, counties meeting specified population, geographic, and unemployment criteria were authorized to designate a bank of no more than two master planned locations suitable for manufacturing or industrial businesses that:

- require a parcel of land so large no suitable parcels are available within the UGA;
- are natural resource-based industries requiring a location near resource land upon which it is dependent; or
- require a location with characteristics such as proximity to transportation facilities or related industries such that there is no suitable location in an UGA. The bank may not be for retail commercial development or multitenant office parks.

The following criteria had to be met to establish a location for an industrial land bank:

- provision for new infrastructure or payment of impact fees;
- implementation of transit-oriented site planning and traffic demand management programs;
- buffering between the development and adjacent nonurban areas;
- provision of environmental protection, including air and water quality;
- establishment of development regulations to ensure urban growth will not occur in adjacent nonurban areas;
- mitigation of adverse impacts on resource lands;

- consistency of the development plan with critical areas regulations; and
- preparation of an inventory determining land suitable to site the location is unavailable within the UGA.

The counties eligible to use the original industrial land bank authority were Clark, Whatcom, Lewis, Grant and Clallam. The pilot program authority expired on December 31, 1999.

Legislation passed in 2001 authorized industrial land bank authority for Grant County and Lewis County until December 31, 2002. Any location included in an industrial land bank on or before December 31, 2002, by an eligible county is available for major industrial development if the statutory criteria are satisfied.

Summary: Counties meeting specified population, geographic, and unemployment criteria may establish industrial land banks until December 31, 2007. Counties eligible to use this authority include Clark, Whatcom, Lewis, Grant, Clallam, Benton, Columbia, Mason, Jefferson, Franklin, Garfield, and Walla Walla counties. Counties that established a location in an industrial land bank outside the urban growth area prior to December 31, 2007, may keep those locations available if the statutory criteria are met.

Any county that has established a location in an industrial land bank using authority granted under any previous legislation may keep that location available for industrial development as long as the statutory criteria are met.

Counties that have established or propose to establish an industrial land bank must review the need within the county during the review and evaluation of comprehensive plans required by the GMA. The review must include a review of the availability of land for industrial and manufacturing uses within the urban growth area.

Additional criteria are added to the required criteria that must be met to include a location in the industrial land bank. Those additional criteria include:

- establishing an interlocal agreement related to infrastructure costs sharing and revenue sharing between the county and interested cities;
- establishing provisions for determining the availability of alternate sites within urban growth areas and the long-term annexation feasibility of land sites outside urban growth areas; and
- requiring development regulations that require the site to be used primarily for industrial and manufacturing businesses and specifying that the gross floor area of all commercial and service buildings shall not exceed 10 percent of the total gross floor area.
- commercial and service businesses located in the industrial site must be necessary to the primary industrial or manufacturing business and must be established concurrently with or subsequent to the industrial or manufacturing business.

Votes on Final Passage:

House	98	0	
Senate	46	1	(Senate amended)
House	94	0	(House concurred)

Effective: June 13, 2002

HB 2501

C 225 L 02

Modifying provisions concerning chiropractics.

By Representatives Campbell, Cody, Ruderman, Linville, Armstrong, Conway, Darneille, Bush, Kirby, Miloscia, Simpson, Dunn and Casada.

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

Background: The practice of chiropractic generally deals with the diagnosis and treatment of the vertebral subluxation complex, articular dysfunction, and musculoskeletal disorders through the use of spinal adjustments, among other procedures and services. It includes dietary advice and recommendation of nutritional supplementation except for medicines of herbal, animal, or botanical origin.

In addition, chiropractic practice includes extremity manipulation complementary and preparatory to a spinal adjustment to support correction of a vertebral subluxation complex. Extremity manipulation is considered a part of a spinal adjustment and may not be billed separately from or in addition to a spinal adjustment.

Summary: In the practice of chiropractic, the rendering of dietary advice and recommendation of nutritional supplementation does not exclude medicines of herbal, animal, or botanical origins.

Extremity manipulation is considered a separate procedure from a spinal adjustment, and it may be billed separately or in addition to a spinal adjustment.

Votes on Final Passage:

House	97	0	
Senate	27	19	(Senate amended)
House	92	4	(House concurred)

Effective: June 13, 2002

SHB 2502

PARTIAL VETO

C 251 L 02

Concerning the establishment of the forest products commission.

By House Committee on Natural Resources (originally sponsored by Representatives Sump, Doumit, Rockefeller, Pearson, Jackley and Chase).

ESHB 2505

House Committee on Natural Resources
Senate Committee on Natural Resources, Parks & Shorelines

Background: The Legislature authorized the creation of a forest products commission during the 2001 legislative session. A forest products commission would operate similarly to the other commodity commissions in the state. It is responsible for the promotion of forest products, conducting research related to managed forests, and promoting managed forests. The commission would be funded by assessments paid by its members.

During the 2001 interim, the United States Supreme Court decided a case that relates to commodity commissions. The court found that a federal law requiring mushroom growers to pay for the establishment of a mushroom council to promote mushrooms was a violation of the First Amendment right to free speech under the United States Constitution. The court did not address in its decision whether promotion by such a commission constituted government speech that is entitled to First Amendment protection.

The statutory provisions do not specify when the director of the Department of Agriculture must call an election regarding the establishment of a forest products commission.

Summary: Legislative intent is clarified to indicate that any advertising, marketing, or public education by the Forest Products Commission constitutes government speech and is therefore entitled to protection under the First Amendment. Additional language is added to the legislative intent section to reflect the importance of research related to forest products and managed forests to the citizens of the state.

Language is added to clarify that the director of the Department of Agriculture must call an election regarding the establishment of a forest products commission after receiving notice from an association representing forest products producers.

The association of forest products producers interested in forming a forest products commission must reimburse the Department of Agriculture for its costs for convening the producers to nominate commission members and for conducting the election. If the commission is approved, it must reimburse the association for the costs paid to the department.

Votes on Final Passage:

House	97	0
Senate	49	0

Effective: June 13, 2002

Partial Veto Summary: The Governor vetoed a section providing legislative findings that: (1) the acts of the Forest Products Commission are government speech that provides a benefit for the people of Washington, (2) the proper promotion of forest products are vital to the state's

citizens, and (3) managed forests research is critical for complying with comprehensive regulatory schemes.

VETO MESSAGE ON HB 2502-S

March 29, 2002

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. 2502 entitled:

"AN ACT Relating to the forest products commission;"

Substitute House Bill No. 2502 revises procedures regarding the election of commissioners to the Forest Products Commission. I support these changes.

However, subsection 1(2) of this bill stated that any advertising, marketing and public education related to the sale of forest products by the commission 'is government speech that provides a benefit for the citizens of the state' and is thereby entitled to First Amendment protection.

In response to a 2001 U.S. Supreme Court decision, *Department of Agriculture vs. United Foods*, questions have been raised regarding the authority of commodity commissions to assess producers for costs associated with advertising, marketing and public education. Subsection 1(2) was an attempt to clarify that the Commission has such authority, and that it does not violate the right to free speech.

The implications of the court decision on the authority of commodity commissions, and the best means by which to address them, are not clear. Rather than doing this in a piecemeal manner, my preference is that this issue be resolved comprehensively, dealing with all state commodity commissions where appropriate.

For these reasons, I have vetoed section 1 of Substitute House Bill No. 2502.

With the exception of section 1, Substitute House Bill No. 2502 is approved.

Respectfully submitted,



Gary Locke
Governor

ESHB 2505

C 340 L 02

Providing criminal penalties for training in furtherance of civil disorders.

By House Committee on Criminal Justice & Corrections (originally sponsored by Representatives O'Brien, Ballasiotes, Lantz, Haigh, Lovick, Ruderman, Schual-Berke, Crouse, Campbell, Delvin, Hurst, Lisk, Buck, Benson and Bush).

House Committee on Criminal Justice & Corrections
Senate Committee on Judiciary

Background: I. Liability for the Crimes of Another. A person may be held criminally liable for the actions of another if:

- the person acts with the same kind of culpability that is sufficient for the crime and causes an innocent or irresponsible person to engage in criminal conduct;
- the person is made accountable by statute; or
- the person is an accomplice of the person committing the crime. A person is an accomplice if, with knowledge that it will promote or facilitate the commission of the crime, he or she 1) solicits, commands, encourages, or requests the other person to commit the crime or 2) aids or agrees to aid the person in committing the crime.

A person will not be held to be liable for the criminal acts of another if he or she:

- is the victim of the crime; or
- terminates his or her involvement in the crime and gives timely notice to law enforcement or makes a good faith effort to stop the crime.

II. Federal Law on Civil Disorders. Under federal law, a person is guilty of a felony if he or she "teaches or demonstrates to any other person the use, application, or making of any firearm or explosive or incendiary device, or technique capable of causing injury or death to persons, knowing or having reason to know or intending that the same will be unlawfully employed for use in, or in furtherance of, a civil disorder which may in any way or degree obstruct, delay, or adversely affect commerce or the movement of any article or commodity in commerce or the conduct or performance of any federally protected function." 18 U.S.C. § 231(1)(a).

Civil disorder is defined as any public disturbance involving acts of violence by assemblages of three or more persons, which causes an immediate danger of or results in damage or injury to the property or person of any other individual.

Although the United States Supreme Court has not ruled on this law's constitutionality, several federal district courts and courts of appeal have upheld the statute. For example, the Seventh Circuit Court of Appeals has ruled that the crime's intent element narrows the crime's scope and exempts innocent and inadvertent behavior. *National Mobilization Committee to End War in Viet Nam v. Foran*, 411 F.2d 934 (7 Cir., 1969).

Summary: It is a class B felony (seriousness level VII) to teach or demonstrate to another person the use, application, or making of a device or technique capable of causing significant bodily injury or death to people, knowing, having reason to know, or intending that the device or technique will be unlawfully used for use in, or in furtherance of, a civil disorder.

"Civil disorder" is defined as a "public disturbance involving acts of violence that is intended to cause an immediate danger of or, result in, significant injury to the person of any other individual."

The provisions do not apply to the actions of law enforcement officers in the lawful performance of their official duties or to firearms training, target shooting, or

other firearms activity not in furtherance of a civil disorder.

Votes on Final Passage:

House	98	0	
Senate	27	22	(Senate amended)
House	94	0	(House concurred)

Effective: June 13, 2002

ESHB 2506

C 308 L 02

Creating a joint task force on green building.

By House Committee on Agriculture & Ecology (originally sponsored by Representatives Romero, Linville, Fisher, Jarrett, Cody, Dickerson, Veloria, Barlean, Simpson, Rockefeller, Dunshee, Hunt, Cairnes, Schmidt, Edwards, Upthegrove, Miloscia, Anderson and Wood).

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

Background: "Green building" is a term currently used for programs that promote environmental conservation and sustainable development. The concept of green building incorporates development standards and building construction processes that promote resource conservation (including energy efficiency, renewable energy, and water conservation features), consider environmental impacts and waste minimization, create a healthy and comfortable environment, reduce operation and maintenance costs, and address issues such as historical preservation, access to public transportation, and other community infrastructure systems.

Green building initiatives have been developed by various federal and state agencies, and green building programs have been established by local governments throughout the United States. Some Washington local governments and builders, including Kitsap County, Clark County, and the Master Builders Association of King and Snohomish Counties, have implemented green building programs.

Summary: A task force on green building is created. The task force includes the following 10 members: two members of the House of Representatives; two members of the Senate; a representative of the Office of Community Development; and one representative each for cities, counties, the residential building industry, the commercial building industry, and environmental organizations. The task force chair is authorized to appoint experts and advisors as nonvoting members.

The task force is required to complete a thorough study of cities and counties that offer green building programs and low-impact development codes to:

- determine program components that are effective and ineffective;

2SHB 2511

- determine incentives and disincentives to implementing a program;
- study various existing green building standards; and
- identify potential for low-impact development to reduce storm water management, road building, and other infrastructure costs.

The task force study must begin its study within 30 days of adjournment of the 2002 regular session. The task force is required to submit a final report, including findings and legislative recommendations, to the Legislature by January 1, 2003. The task force provisions expire March 30, 2003.

Votes on Final Passage:

House 68 29
Senate 48 0

Effective: June 13, 2002

2SHB 2511

C 85 L 02

Making any robbery within a financial institution a first degree robbery.

By House Committee on Appropriations (originally sponsored by Representatives O'Brien, Ballasiotes, Schoesler, Kessler, Kirby, Santos, Benson, Edwards, Kenney Chase, Lovick, Wood and Casada).

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

Background: Washington does not have a specific criminal statute relating to financial institution robberies with a "note only." However, most cases of this nature, when charged in state court, are prosecuted as second-degree robbery, which is the unlawful taking of property by use or threat of force or fear of injury. Robbery in the second degree is a seriousness level IV, class B felony. A person with no criminal history would receive a presumptive sentencing range of three to nine months in jail.

Robbery in the first degree is the unlawful taking of property by use or threat of force or fear of injury using a deadly weapon or inflicting bodily injury. First-degree robbery is a seriousness level IX, class A felony. A person with no criminal history would receive a presumptive range of 31 to 41 months in prison.

Most crimes involving financial institutions are federal crimes. Under the federal sentencing guidelines, a crime such as bank robbery carries a maximum penalty of 20 years of incarceration or a fine up to a maximum of \$60,000 (excluding any exceptional circumstances or criminal offense enhancements).

Summary: Robbery of a financial institution (with or without a deadly weapon) is classified as robbery in the first degree, a seriousness level IX, class A felony.

Financial institution means any bank, branch of a bank, state bank, trust company, national banking association, stock savings bank, mutual savings bank, savings and loan association, or credit union, authorized by federal or state law to accept deposits in the state.

Votes on Final Passage:

House 94 0
Senate 47 0

Effective: June 13, 2002

SHB 2512

C 86 L 02

Creating the uniform regulation of business and professions act.

By House Committee on State Government (originally sponsored by Representatives Upthegrove, Schmidt, Miloscia, Romero, Edwards, Jackley, Kenney, Ogden, Chase, Morris, McDermott and Schual-Berke; by request of Governor Locke).

House Committee on State Government
Senate Committee on Labor, Commerce & Financial Institutions

Background: The Department of Licensing regulates most businesses and professions except the health professions. Each business and profession has a separate set of laws regarding disciplinary actions, including investigating violations of the law and imposing sanctions for violations. However, inconsistencies in these laws' requirements for administering disciplinary procedures result in differing treatment for the regulated businesses and professions.

Disciplinary procedures for health professionals are administered under the Regulation of Health Professions Uniform Disciplinary Act, which was enacted in 1983 to establish uniform guidelines for the regulation of those health professions not licensed or regulated prior to July 24, 1983.

Summary: The Uniform Regulation of Business and Professions Act is adopted. Under the act, disciplinary procedures are consolidated for the licensed businesses and professions regulated by the Department of Licensing. Authority of the board, commission or department director, grounds for discipline, and available sanctions are defined. These new provisions apply to conduct occurring after the act's effective date.

Established Authority. "Disciplinary authorities" are defined as boards or commissions, or the director. All disciplinary authorities may investigate complaints, conduct proceedings pursuant to the Administrative Procedures Act, issue subpoenas, take depositions, conduct practice reviews, perform audits and inspections, and order a summary suspension of business practices. Disciplinary authorities may also grant or deny licenses

based on the conditions and criteria established for individual businesses and professions.

"Director" refers to the director of the Department of Licensing or the director's designee. In addition to the authority granted as a disciplinary authority, the director may employ investigative, administrative, and clerical staff as necessary for enforcement; appoint three pro tem members to a board or commission; and establish fees to be paid for witnesses, expert witnesses, and consultants. The following businesses and professions are under the disciplinary authority of the director of the Department of Licensing:

auctioneers; bail bond agents; camping resorts' operators and salespersons; commercial telephone solicitors; cosmetologists, barbers, manicurists, and estheticians; court reporters; employment agencies; for-hire vehicle operators; limousines; notaries public; private investigators; professional boxing, martial arts, and wrestling; real estate appraisers; real estate brokers and salespersons; security guards; sellers of travel; timeshares and timeshare salespersons; and white-water river outfitters.

The following businesses and professions are under the disciplinary authority of a board or commission:

the State Board of Registration for Architects; the Cemetery Board; the Washington State Collection Agency Board; the State Board of Registration for Professional Engineers and Land Surveyors; the State Board of Funeral Directors and Embalmers; the State Board of Registration for Landscape Architects; and the State Geologist Licensing Board.

Disciplinary Grounds. If, after an investigation, a disciplinary authority believes that "unprofessional conduct" has occurred, a statement of charges may be served upon the license holder or applicant. The license holder or applicant must request a hearing within 20 days to contest the charges. If a hearing is not requested, the disciplinary authority may make a decision on the case. If a hearing is requested, it may not be held earlier than 30 days after charges have been made.

"Unprofessional conduct" is uniformly defined for all businesses and professions and includes the following:

- an act involving moral turpitude, dishonesty, or corruption relating to the person's practice, whether or not the act constitutes a crime;
- misrepresentation of facts in obtaining a license;
- false, deceptive, or misleading advertising;
- incompetence, negligence, or malpractice resulting in harm or damage to a consumer;
- suspension, revocation, or restriction of a license in another state, federal, or foreign jurisdiction;
- failure to cooperate with the disciplinary authority;
- failure to comply with an order issued by the disciplinary authority;

- violating a lawful rule made by the disciplinary authority;
- aiding or abetting an unlicensed person to practice;
- practice beyond the scope as defined by law or rule;
- misrepresentation in the conduct of business;
- failure to oversee staff to the extent that consumers may be harmed;
- conviction of any gross misdemeanor or felony relative to the profession; and
- interference with an investigation through willful misrepresentation of facts.

Sanctions. Upon a finding of unprofessional conduct, uniform sanctions are specified for all businesses and professions regulated by the department. The disciplinary authority may:

- revoke a license or suspend it for an indefinite time;
- restrict or limit the practice;
- order completion of a remedial education or treatment program;
- monitor the practice;
- issue a censure or reprimand;
- assign probation;
- issue a fine, not to exceed \$5,000 per violation unless specified by law;
- deny an initial or renewal license application; or
- take other corrective action.

The disciplinee may be required to pay for investigative costs associated with the action, but only if one of the authorized sanctions is ordered.

An individual who has been disciplined or whose license has been denied may appeal the decision pursuant to the Administrative Procedures Act. A person whose license has been suspended or revoked may petition for reinstatement. The disciplinary authority may require the successful completion of an examination as a condition of reinstatement.

Disciplinary authorities may investigate complaints of unlicensed practice and may issue temporary and permanent cease and desist orders. Disciplinary authorities may also impose a civil fine of not more than \$1,000 for each day that a person engages in unlicensed practice.

If a person or business fails to comply with an order regarding unprofessional conduct or practice without a license, the Attorney General, a county prosecuting attorney, a disciplinary authority, or any other person may take action to enjoin the person from violating the order. If a person or business violates an injunction, the person or business may be found in contempt of court, and the court may assess a civil penalty not to exceed \$25,000. If a person or business fails to pay fines for unprofessional conduct or practicing without a license in a timely manner, disciplinary authorities may enforce the order for payment in superior court.

Notes on Final Passage:

House	98	0
Senate	47	0

Effective: June 13, 2002
January 1, 2003 (Sections 101-123, 201-240,
and 242-401)
July 1, 2003 (Section 241)

SHB 2513
C 226 L 02

Regulating timeshare interest reservations.

By House Committee on Commerce & Labor (originally sponsored by Representatives Wood, Clements and Conway).

House Committee on Commerce & Labor
Senate Committee on Labor, Commerce & Financial Institutions

Background: A timeshare is a right to occupy a unit of real property during three or more separate periods over a term of at least three years. The Department of Licensing's Business and Professions Division regulates the advertisement and sale of timeshares. Regulation includes two primary steps: (1) registration with the department of a timeshare offering prior to any advertising or solicitation of a timeshare project; and (2) written disclosure to the department and purchasers of all information necessary to fully inform a prospective purchaser prior to the sale of a timeshare.

Registration of a timeshare offering requires the filing of a promoter's statement and a disclosure document. The promoter's statement includes specific financial and background information related to the promoter and the project. The disclosure document describes the location of the timeshare property and the type, price, duration, and number of individual units, as well as information regarding available financing, current ownership of units, the managing company, insurance provided, and dues, fees, and other expenses to be assessed.

Summary: A "timeshare interest reservation" is created, which allows a promoter to pre-sell a revocable right to purchase a timeshare for which construction has not been completed. A promoter may market and advertise a timeshare project and may accept a reservation deposit from a prospective purchaser in an amount of up to 20 percent of the projected purchase price. Prior to any offer or sale of a timeshare reservation, a promoter must be effectively registered with the department and must provide a registered disclosure document to each prospective purchaser. Once construction on the timeshare project is completed, the promoter must submit updated registration and disclosure documents for department approval.

Within one day of accepting a timeshare reservation deposit, a promoter must deliver the deposit to an insured escrow account. Deposits must remain in the account until cancellation of the reservation or execution of a

purchase agreement. The department may request the deposits be placed in impoundment.

A prospective buyer may cancel a timeshare interest reservation at any time before signing a purchase and sale agreement. Within 10 days of a termination of a timeshare interest reservation, a promoter must refund to the prospective buyer the reservation deposit plus any interest earned less any applicable account fees. Account fees may be no more than 1 percent of the deposit paid. If a prospective purchaser learns a promoter intends to raise the selling price above that listed in the timeshare reservation agreement, the agreement becomes void and the promoter must refund the deposit and the account fees. If a timeshare project appears to be or is insolvent, the promoter must refund all deposits and account fees. The timeshare reservation agreement must contain a specific written statement of the purchaser's cancellation rights.

Votes on Final Passage:

House	98	0
Senate	46	0

Effective: June 13, 2002

ESHB 2522
C 285 L 02

Encouraging the purchase of clean technologies.

By House Committee on State Government (originally sponsored by Representatives Sullivan, Romero, Lovick, Murray, Upthegrove, Miloscia, Chase, Rockefeller, Lantz, Simpson, Kagi, McIntire, Wood, Santos, Linville and Edwards).

House Committee on State Government
House Committee on Appropriations
Senate Committee on Environment, Energy & Water

Background: Although the term "clean technologies" is not defined in statute or in the Washington Administrative Code, it generally refers to technologies that reduce pollution or conserve energy. An "alternative fuel vehicle," or a vehicle that is fueled with something other than petroleum-based gasoline and diesel is an example of clean technology.

The Legislature has adopted a clear policy statement in statute regarding the use of alternative fuels in motor vehicles and has directed the Department of General Administration (GA) to develop guidelines and criteria for the purchase of vehicles that use alternate fuels, systems, and equipment that would reduce energy cost and energy use.

The GA is responsible for purchasing state passenger vehicles that meet the minimum standards established by the United States Secretary of Transportation pursuant to the Energy Policy and Conservation Act. In 1991 state law required that 30 percent of all new vehicles

purchased through state contracts be clean-fuel vehicles and that the percentage increase at the rate of 5 percent each year. Because alternative fueled vehicles are more costly than gasoline- or diesel-fueled vehicles, the GA is directed to explore opportunities to aggregate purchases with the federal government, agencies of other states, state agencies, local governments, or private organizations.

The 2001 energy crisis has refocused attention on development of renewable, clean energy resources, such as wind and solar energy, and the use of fuel cells. The volatile market prices for electricity and the improvements in energy technology are making investments in renewable energy resources more economically viable than in the past when renewable resources were significantly more expensive than fossil fuels. Electric utilities are directed to offer their customers a choice to voluntarily purchase electricity generated from renewable resources.

Summary: The GA must develop guidelines and criteria for the purchase of high gas mileage vehicles, in addition to vehicles that use alternate fuels, and find ways to aggregate the purchasing of clean technologies by state and local governments. All state agencies must investigate and determine whether they can make clean technologies more cost-effective by combining their purchasing power before completing a planned vehicle purchase.

The GA, in cooperation with other public agencies, must investigate opportunities to aggregate the purchase of clean technologies to determine if combined purchasing can reduce the cost. State agencies that are retail electric customers must investigate opportunities to aggregate the purchase of electricity generated by wind or solar energy to determine if combined purchasing can reduce the cost. No public agency is required to purchase clean technologies at prohibitive costs. Clean technologies include alternative fueled hybrid-electric and fuel cell vehicles and distributive power generation.

Electric utilities are authorized to pursue aggregation opportunities with other utilities when acquiring qualified alternative energy resources. They are also encouraged to investigate opportunities to aggregate their customers' purchases.

The Department of Community, Trade, and Economic Development is to include in its biennial energy report due by December 1, 2002, the percentage of clean-fuel vehicles purchased in 2001 through state contract and the results of efforts by the GA and other state agencies to aggregate purchasing of clean technologies.

Votes on Final Passage:

House	98	0	
Senate	49	0	(Senate amended)
House	97	0	(House concurred)

Effective: June 13, 2002

HB 2526

C 93 L 02

Providing exemptions from SEPA for reductions of city limits and disincorporations.

By Representatives Berkey, Mulliken, Dunshee, Mielke, Kirby, Crouse and Linville.

House Committee on Local Government & Housing
Senate Committee on Environment, Energy & Water

Background: The State Environmental Policy Act (SEPA) requires a governmental entity, whether state or local, to analyze the environmental impacts of its major actions. The Department of Ecology has adopted rules to implement the SEPA. The lead agency must make a threshold determination of whether the proposal has probable significant adverse environmental impacts. If the lead agency determines that it does, an Environmental Impact Statement (EIS) must be prepared. An agency's decision under the SEPA is subject to review administratively, if allowed by the agency, and judicially. The department's rules under the SEPA also apply to proposed reductions of city or town limits and proposed disincorporations of cities or towns.

Summary: Reductions of city or town limits and disincorporations of cities or towns are exempted from compliance with the State Environmental Policy Act.

Votes on Final Passage:

House	97	0
Senate	48	0

Effective: June 13, 2002

HB 2527

C 94 L 02

Revising certain day labor limits to account for inflation.

By Representatives Sullivan, Dunshee, Edwards, DeBolt, Reardon, Kirby, Cooper, Crouse, Mielke, Miloscia, Chase and Wood.

House Committee on Local Government & Housing
Senate Committee on State & Local Government

Background: First class cities may have public works performed by city employees in any annual or biennial budget equal to a dollar value not exceeding 10 percent of the public works construction budget over the budget period. All other public works contracts must be done by contract pursuant to public notice and call for competitive bids.

In addition to the 10 percent limitation on public works contracts, first class cities with at least 150,000 population are prohibited from having city employees perform a project in excess of \$50,000 if more than a single craft or trade is involved, or \$25,000 if only a single craft or trade is involved. First class cities with less than

0 population are prohibited from having city employees perform public works projects in excess of \$35,000 if more than a single craft or trade is involved, or \$25,000 if only a single craft or trade is involved.

Second class cities or towns may have public works performed by contract or day labor without going to bid for projects estimated at no more than \$35,000 if more than one craft or trade is involved, or \$20,000 if only one craft or trade is involved.

Summary: The day labor limit for first class cities with over 150,000 population is raised to \$70,000 if more than one trade or craft is involved, and \$35,000 if only one trade or craft is involved. As of January 1, 2010, the limits are raised to \$90,000, and \$45,000, respectively.

The day labor limit for first class cities with under 150,000 population is raised to \$50,000 if more than one trade or craft is involved, and \$30,000 if only one trade or craft is involved. As of January 1, 2010, the limits are raised to \$65,000, and \$40,000, respectively.

Second class cities and towns day labor limits are raised to \$45,000 if more than one trade or craft is involved, and \$30,000 if only one trade or craft is involved. As of January 1, 2010, the limits are raised to \$60,000, and \$40,000, respectively.

Votes on Final Passage:

House 75 23
Senate 27 18

Effective: June 13, 2002

SHB 2536

C 142 L 02

Offering health care benefit plans to school district employees.

By House Committee on Appropriations (originally sponsored by Representatives Fromhold, Cox, Schual-Berke, Talcott, Conway, Doumit, Grant, Cody, Benson, McDermott, Delvin, Sullivan, Armstrong, Eickmeyer, Miloscia, Roach, Casada, Mielke, Morell, Boldt, Barlean, Chase, Rockefeller, Ogden, Lantz, Edwards, Simpson, Kessler, Haigh, Pearson, Dunn, Quall, Veloria, Kagi, McIntire, Wood, Santos and Linville).

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

Background: The Washington State Health Care Authority (HCA) is the state agency that purchases insurance benefits for state employees and retirees, school district employees and retirees, and local government employees and retirees. School districts and other political subdivisions have the option of purchasing benefits through the HCA and must have the approval of the HCA to do so.

Funding for state employee benefits is provided through an employer funding rate and employee premium contributions. Included in each state agency's base funding is a flat amount, called an employer funding rate, for each employee working half-time or more. The state agency must provide the HCA that same flat amount for each employee working half-time or more. The employer funding rate for fiscal year 2002 is \$457.29 per month. In addition, the HCA charges each state employee a premium that is based in part on family size and on the employee's choice of health plan. The employer funding rate is also called a composite rate because it is the average rate necessary to fund state employee benefits given the average family size of state employees enrolled in HCA plans. The average family size of state employees enrolled in HCA plans is 2.22.

The state provides a flat amount per month for each full-time equivalent staff generated by the state funding formulas for school district employees. K-12 employee fringe benefits are bargained locally. This allows bargaining over the content of available plans as well as the level of employer funding. School districts may purchase health benefits from a variety of sources. Two hundred fifty school districts representing about half of all school district employees offer one or more health benefit plan through the plans available through the Washington Education Association. A few large school districts have their own health benefit trusts. About 25 school districts purchase health benefits through the HCA. There are 1,800 school district employees and 2,500 school district employee dependents in HCA medical plans. The average family size of school district employees enrolled in HCA plans is 2.39.

For most school districts purchasing benefits through the HCA, the HCA charges the school district the amount that the HCA must pay the health plan in which the employee is enrolled. This is referred to as a tiered rate structure because it reflects family size and plan choice. There are five school districts that were purchasing benefits from the HCA before the tiered rate structure was adopted. These five school districts pay the HCA a composite rate, that is, they pay the same rate for all of their employees enrolled in an HCA plan.

Summary: The HCA will charge a composite rate, plus the same employee premiums by plan and by family size as are paid by state employees, for all K-12 employees participating in HCA plans as of January 1, 2002. The HCA will charge a composite rate, plus the same employee premiums as are paid by state employees, for all new groups of K-12 employees applying to participate only if the average family size of these groups does not adversely impact the HCA's insurance account. If the HCA determines that billing for new K-12 employee groups on a composite rate would adversely impact the insurance account, the HCA must offer enrollment under

a tiered rate structure that reflects family size and plan chosen.

K-12 employees participating in HCA plans must pay the same employee premiums as state employees pay. K-12 employees participating in HCA plans will no longer have the option of purchasing medical only coverage. The same eligibility requirements will apply to participating K-12 employees as apply to state employees.

Votes on Final Passage:

House	97	0
Senate	44	0

Effective: June 13, 2002

HB 2537

C 241 L 02

Providing authorization for projects recommended by the public works board.

By Representatives McIntire, Hankins, Chase, Hatfield, Ogden, Simpson, Kessler, Haigh, Conway, Rockefeller, Kenney, Lantz, Quall, Dickerson, Upthegrove, Veloria, Kagi, Murray, Schual-Berke, Fisher, Cody, Tokuda, O'Brien, Lovick, Ruderman, Hunt, McDermott, Linville and Jackley; by request of Governor Locke.

House Committee on Capital Budget
Senate Committee on Ways & Means

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

The account receives dedicated revenue from utility and sales taxes on water, sewer service, and garbage collection, a portion of the real estate excise tax, and loan repayments.

The Public Works Assistance Account appropriation is made in the capital budget, but the project list is submitted annually in separate legislation. The CTED received an appropriation of approximately \$230.3 million from the Public Works Assistance Account in the 2001-03 capital budget. The funding is available for public works project loans in the 2002 and 2003 loan cycles.

Each year, the Public Works Board is required to submit a list of public works projects to the Legislature for approval. The Legislature may remove projects from

the list, but it may not add any projects or change the order of project priorities. Legislative approval is not required for pre-construction activities, planning loans, or emergency loans.

Summary: As recommended by the Public Works Board, 64 public works project loans totaling \$206,019,133 are authorized for the 2002 loan cycle. The 64 authorized projects fall into the following categories:

- (1) twenty-nine water projects totaling \$82,661,311;
- (2) twenty-four sewer projects totaling \$95,404,497;
- (3) nine road projects totaling \$16,528,325; and
- (4) two solid waste/recycling projects totaling \$11,425,000.

Votes on Final Passage:

House	94	0
Senate	48	0

Effective: March 28, 2002

ESHB 2540

C 34 L 02

Authorizing collective bargaining for University of Washington employees who are enrolled in academic programs.

By House Committee on Commerce & Labor (originally sponsored by Representatives Conway, Kenney, Wood, Chase, Cooper, Fromhold, Lysen, Campbell, Hunt, Veloria, Cody, Simpson, Haigh, Dickerson, Miloscia, Ogden, Quall, McIntire, Schual-Berke, Santos, McDermott and Kirby).

House Committee on Commerce & Labor
House Committee on Appropriations
Senate Committee on Labor, Commerce & Financial Institutions
Senate Committee on Ways & Means

Background: Employees enrolled in academic programs at the University of Washington, like other students, are exempt from the state civil service law. As a result, they do not have a right to engage in collective bargaining under the state civil service collective bargaining law. They also are not granted a right to engage in collective bargaining under the public employees' collective bargaining law. Consequently, while the University of Washington may have an implied power, it likely does not have an obligation to negotiate with teaching assistants, research assistants, or their representatives over terms of employment.

Summary: The public employees' collective bargaining law applies to the University of Washington with respect to certain employees enrolled in academic programs.

Intent. The stated intent is to promote cooperative labor relations between the University and the employees who provide instructional, research, and related

academic services while enrolled as students. The Legislature does not intend to restrict or prohibit, with respect to matters outside the scope of bargaining:

- the exercise of shared governance functions of the faculty; and
 - the exercise of the functions of the graduate and professional student senate, the associated students organization, or other similar organizations.
- The University is not restricted from:
- considering the merits, necessity, or organization of any program or activity, including whether to establish, modify, or discontinue a program or activity; and
 - having sole discretion over student admission requirements, criteria for awarding degrees, academic requirements for selection of student employees, initial appointment, and the content and supervision of courses, curricula, grading requirements, and research programs.

Bargaining Unit. For covered student employees, the members of an appropriate bargaining unit are:

- predoctoral instructors, lecturers, teaching assistants, and teaching associates;
- predoctoral researchers, research assistants, and research associates;
- predoctoral staff assistants and staff associates;
- tutors, readers, and graders; and
- employees with substantially equivalent duties enrolled in an academic program.

Students who are predoctoral researchers or research assistants or associates are excluded if they perform research primarily related to their dissertation and have incidental or no service expectations placed on them by the University.

Scope of Bargaining. The scope of bargaining excludes the following subjects:

- the ability to terminate an employee who is not meeting the University's academic requirements;
- the amount of tuition or fees, except that tuition/fee remission or waiver is within the scope of bargaining;
- the University's academic calendar; and
- the number of students to be admitted to a class or section.

Compensation. The compensation provisions in a collective bargaining agreement may not exceed the amount or percentage established by the Legislature. However, the employer may provide additional compensation that exceeds that provided by the Legislature. If a compensation provision is affected by subsequent modification of an appropriations act, the parties must bargain for a replacement provision.

Votes on Final Passage:

House 53 44
Senate 25 22

Effective: March 14, 2002

SHB 2541

C 125 L 02

Expanding authority for interlocal agreements for jail services.

By House Committee on Criminal Justice & Corrections (originally sponsored by Representatives Hurst, Jarrett, Ballasiotes, O'Brien, Dickerson, Edwards, Miloscia, Morell, Rockefeller, Haigh and Linville).

House Committee on Criminal Justice & Corrections
Senate Committee on Judiciary

Background: Counties may contract for jail services with a city located within the boundaries of the county or with other counties. However, a county or a city cannot contract for jail services with another city that is located outside of its county boundaries. Jail services include allowing a prosecuting city or county to confine a person convicted of an offense, punishable by imprisonment in a jail, in a county or city where jail services are contracted.

Summary: The provision that limits contracts for jail services between a county and cities located within its county borders is expanded.

Counties and cities may contract for jail services in any city or county. In addition, jail services are expanded allowing a prosecuting city or county to incarcerate a person, (charged or convicted with an offense) in any county or city jail where services are contracted. Any jurisdiction that confines a person in another county must provide private telephone, video-conferencing, or in-person contact between the defendant and his or her public defense counsel.

Votes on Final Passage:

House 97 0
Senate 44 0 (Senate amended)
House 94 0 (House concurred)

Effective: June 13, 2002

ESHB 2544

C 360 L 02

Restricting use of credit history.

By House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Cooper, Benson, Santos, Clements, Simpson, McIntire, Armstrong, Hunt, Romero, Dickerson, Upthegrove, Chase, Ogden, Haigh, Conway, Kenney, Campbell and Linville; by request of Governor Locke, Insurance Commissioner and Attorney General).

House Committee on Financial Institutions & Insurance
Senate Committee on Labor, Commerce & Financial Institutions

Background: Credit reports have been used for many years by the insurance industry in making property and

casualty underwriting decisions. More recently, the industry has used credit history information in the setting of insurance rates and the development of "credit scoring" models for underwriting and rate setting purposes. The credit reporting industry consists of over 600 credit bureaus that accumulate credit data on a local or regional basis. These bureaus, in turn, provide data to three national credit reporting companies that generate the credit reports most often used by financial institutions, insurance companies, and other commercial entities.

Both the federal Fair Credit Reporting Act (15 USC, Section 1681) and the state Fair Credit Reporting Act (Chapter 19.182 RCW) explicitly allow consumer reporting agencies to release credit reports to insurance companies for insurance underwriting purposes. Accordingly, insurance companies have utilized these reports for many years as a factor to be considered in determining which individuals are eligible for coverage and/or what the terms of such coverage will be. Because the weight given to credit reports, in conjunction with other factors, varies widely within the industry, there is no one practice that can be ascribed to the industry as a whole.

In recent years, the review of an individual's credit report in the insurance underwriting process has given way to the consideration of the individual's "credit score." A credit score is a number generated via a computer program that analyzes the data in an individual's credit report. The computer program uses an algorithm to reduce credit report data to a single numerical score, ranging from 300 to 850. According to the proponents of credit scoring, an individual with a higher score poses a lower risk of loss to the insurance company than does an individual with a lower score.

Generally, credit scores are calculated either by the insurance company using its own computer model or by third-party vendors who contract with insurers to do credit score calculations. Many different modeling programs are used throughout the industry with no uniformity between companies with respect to the criteria used in generating the score.

No explicit state law regulates the insurance industry's use of either consumer credit information or credit scoring. However, the Office of the Insurance Commissioner (OIC) does have general legal authority to regulate the rate setting practices of those insurance companies doing business in Washington. This authority is quite broad and provides a basis for regulatory action whenever a rate setting practice can be proved to be "excessive, inadequate, or unfairly discriminatory." Furthermore, pursuant to administrative rule, the OIC requires that any rate setting process be "actuarially sound," which means that there must be a demonstrable statistical correlation between the premium rate and the actual risk of loss.

Summary: An insurer's decision to cancel or not renew an existing policy of personal insurance may not be based - in whole or in part - on an insured's credit history. However, an insurer may use credit history as the basis for placing an insured with another company affiliated with the insurer.

An insurer is permitted to consider credit history in the evaluation of a new customer applying for insurance, provided such credit history is considered in conjunction with other substantive underwriting factors. An offer of placement with an affiliate insurer does not constitute a denial of coverage.

There are certain types of credit history information that can neither be considered in rate setting nor form the basis of an insurer's decision to deny coverage, including:

- an absence of credit history;
- the number of credit inquiries;
- credit history related to medical care;
- entries related to the initial purchase or finance of a house or car;
- use of a particular type of credit, debit, or charge card; or
- the dollar amount of a consumer's available credit.

An insured is provided with remedies if his or her insurance coverage is adversely affected by an inaccurate credit history.

An insurer that takes any adverse action against a consumer based on credit history must provide the consumer with written notice. The notice must identify those aspects of the consumer's credit history that played a significant role in the decision leading to the adverse action. The insurer must also inform the consumer that the consumer is entitled to a free copy of his or her credit report.

An insurer must file its insurance scoring model with the Insurance Commissioner as a condition precedent to the consideration of credit history in either the setting of premium rates or in determining eligibility for coverage. Insurers are prohibited from considering specified categories of credit history information as part of the rate setting process.

The Insurance Commissioner is required to report to the legislature on the implementation of the act and regarding issues related to the use of credit history in personal insurance underwriting.

The provisions of the act pertaining to insurance underwriting are applicable to all policies of personal insurance issued or renewed after January 1, 2003.

The provisions of the act pertaining to premium rate setting are applicable to all personal insurance policies issued or renewed on or after June 30, 2003.

Votes on Final Passage:

House	93	4
Senate	36	11

Effective: June 13, 2002

HB 2550
227 L 02

Applying for a license or solicitation permit from the insurance commissioner.

By Representatives McIntire, Benson, Santos and Kenney; by request of Insurance Commissioner.

House Committee on Financial Institutions & Insurance
Senate Committee on Labor, Commerce & Financial Institutions

Background: Some applicants for insurance licenses are required by law to provide fingerprints to the Office of the Insurance Commissioner (OIC). The OIC, in turn, submits the fingerprints to the Washington State Patrol (WSP) and the Federal Bureau of Investigation (FBI) for the purpose of completing criminal history background checks on the applicants. The FBI has recently taken the position that it cannot lawfully provide the OIC with an applicant's criminal history absent specific statutory authorization to do so. While state law does provide for the collection of fingerprints, it does not explicitly authorize their use by the FBI or the WSP for the purpose of conducting background checks.

Insurance regulations do not authorize either fingerprinting or criminal background checks with respect to licensing applications for the following categories of insurance professionals: surplus lines brokers; operators of premium finance companies; viatical settlement brokers; and viatical settlement providers.

Summary: The OIC is explicitly authorized to submit a licensing applicant's fingerprints to the WSP and the FBI for the purpose of obtaining a criminal history background check. Applicants are to pay any fees associated with the completion of such background checks.

A person applying for a license as a surplus lines broker or to operate a premium finance company must provide fingerprints and other specified background information as required by the commissioner.

Applicants for licensing as viatical settlement brokers or viatical settlement providers must provide fingerprints and submit to criminal history background checks.

Statutory language is clarified through technical changes in terminology.

Votes on Final Passage:

House 98 0
Senate 46 1

Effective: March 28, 2002

HB 2553
C 87 L 02

Increasing the number of eligible tribes for cigarette tax contracts.

By Representatives Morris, Pflug, Dunshee, Clements, Conway, Chase, Rockefeller and Veloria.

House Committee on Finance
Senate Committee on Labor, Commerce & Financial Institutions

Background: The rate for the cigarette tax is 142.5 cents per pack of 20 cigarettes. Retail sales and use taxes are also imposed on sales of cigarettes. Revenue from the first 23 cents of the cigarette tax goes to the general fund. The next 8 cents are dedicated to water quality improvement programs through June 30, 2021, and to the general fund thereafter. The next 101 cents goes to the Health Services Account. The remaining 10.5 cents are dedicated to youth violence prevention and drug enforcement.

Under federal law, the cigarette tax does not apply to cigarettes sold on an Indian reservation to an enrolled tribal member for personal consumption. However, sales made by tribal cigarette retailers to non-tribal members are subject to the tax. Enforcement of state cigarette taxes with respect to tribal retail operations has involved considerable difficulty and litigation, with mixed results.

In the 2001 session, ESSB 5372 passed allowing the Governor to enter into cooperative agreements concerning the sale of cigarettes with federally recognized Indian tribes located within Washington. Cooperative agreements must be for renewable terms of eight years or less. Cigarettes sold on Indian lands during the cooperative agreement's term are subject to a tribal cigarette tax and are exempt from state cigarette and sales and use taxes.

- In general, cigarette cooperative agreements must:
- (1) limit tribal retailing to sales of cigarettes by tribes or Indians in Indian country;
 - (2) prevent sales to any person under the age of 18 years;
 - (3) require that the tribal cigarette tax be used for essential government services;
 - (4) require the use of tribal cigarette tax stamps;
 - (5) include provisions for compliance;
 - (6) require that tribal retailers purchase cigarettes only from approved sources;
 - (7) allow resolution of disputes through a non-judicial process, such as mediation; and
 - (8) include a procedure for correcting violations of the contract and provision for termination of the contract should violations not be resolved.

The Governor is authorized to enter into cooperative 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 Yakima Nation, the Suquamish Tribe, the Nooksack Indian Tribe, the Lummi Nation, the Chehalis Confederated Tribes, and the Upper Skagit Tribe at a tax rate of 100 percent of the state cigarette and sales tax rate. The 100 percent rate may be phased in over three years, but the rate can be no lower than 80 percent of state cigarette and sales tax rate.

On December 10, 2001, the Governor signed the first cooperative agreement with the Squaxin Island Tribe.

Summary: The Governor's authority to enter into cigarette cooperative agreements with Indian tribes is expanded to include the Snoqualmie and Swinomish Tribes.

Votes on Final Passage:

House	98	0
Senate	48	0

Effective: June 13, 2002

SHB 2557

C 88 L 02

Revising provisions relating to metropolitan park districts.

By House Committee on Natural Resources (originally sponsored by Representatives Lovick, Sump, Doumit, Buck, O'Brien, Pearson, Rockefeller, Ogden, McDermott, Mitchell, Boldt, Ericksen, Morell, Kenney and Jackley).

House Committee on Natural Resources
Senate Committee on Natural Resources, Parks & Shorelines

Background: Cities with a population of at least 5,000 may create a metropolitan park district to manage, create, control, improve, maintain, and acquire parks, parkways, and boulevards. The proposition to create a metropolitan park district may be submitted to the voters on the motion of the city legislative authority or by the filing of a petition signed by 15 percent of the registered voters in the city. The proposition may be voted upon at a general election or a special election. The district is formed if a majority of voters who vote in the election approve its creation.

Five park commissioners are elected simultaneously when the voters are deciding whether a metropolitan park district should be formed. Candidates run for specific positions. No primary is held for these positions, and the candidate who receives the most votes for that position is elected as a commissioner. After the initial commissioners serve staggered terms, commissioners are elected to six-year terms.

Metropolitan park districts may issue both voter approved and nonvoter approved indebtedness. The

combined indebtedness cannot exceed 2.5 percent of the value of the taxable property in the district. Metropolitan park districts may issue general obligation bonds up to a maximum term of 20 years. These districts may also impose a levy not to exceed 50 cents per \$1,000 of assessed value of the property in the district.

Although this law was enacted in 1907, only one metropolitan park district has been created in the state. The creation, annexation, or dissolution of a metropolitan park district is also subject to potential review by a boundary review board.

The Legislative Task Force on Local Parks and Recreation Maintenance and Operations recommended in its report to the Legislature that the law governing metropolitan park districts be amended to make it easier for these districts to be formed, including allowing combinations of cities, counties, or cities and counties to form them. The task force also recommended that the governing structure of these districts be amended to provide more flexibility.

Summary: A metropolitan park district may include territory located in portions or all of one or more cities or counties, or in one or more cities and counties. A ballot proposition is submitted to the voters either by resolution of the city and county legislative authorities proposing the creation of the district or by a petition signed by at least 15 percent of the registered voters within the proposed boundaries of the district. The petition must be filed with the county auditor for the county in which the property is located.

The resolution or petition submitting the ballot proposition must designate the composition of the board of commissioners of the metropolitan park district. In addition to the current method for electing commissioners, two additional methods are added for selecting the board of commissioners. If a district is wholly located within a city or within the unincorporated area of a county, the legislative authority of the city or county may serve as the governing body of the metropolitan park district. If the proposed district is located in more than one city, more than one county, or any combination of cities and counties, each of the legislative authorities may be designated to collectively serve as the board of metropolitan park commissioners through the selection of one or more members to serve on the board. In either case, the city or county legislative authorities must approve a resolution designating them to serve in that capacity when the proposition is being made by citizen petition. Within six months after the election results have been certified, the size and membership of the board must be determined through an interlocal agreement. The interlocal agreement must specify the method for filling vacancies on the board.

If a city with a metropolitan park district annexes territory, a boundary review board may not review the annexation of the additional territory into the metropoli-

ESHB 2560

tan park district independent of the review of the city's annexation of territory. A boundary review board may not review a proposed district if the boundaries of the proposed district are located entirely within one or more cities. In other instances, when a boundary review board exists within a county, notice to create a metropolitan park district must be filed with the board in accordance with its procedures. The special election on the ballot proposition calling for the creation of a metropolitan park district is held at the next special election that is 60 or more days after the date the boundary review board has approved the proposal.

Votes on Final Passage:

House	76	21	
Senate	26	20	(Senate amended)
House	84	10	(House concurred)

Effective: June 13, 2002

ESHB 2560

C 195 L 02

Shifting approval of driver training schools from the superintendent of public instruction to the department of licensing.

By House Committee on Transportation (originally sponsored by Representatives Quall, O'Brien, Lovick, Mitchell, Clements, Sump, Simpson, Sehlin, Cooper, Delvin, Boldt, Morell, Kessler, Buck, Hankins, Fisher, Armstrong, Mielke, Rockefeller, Haigh, Nixon, Kenney and Jackley).

House Committee on Transportation
Senate Committee on Transportation

Background: Washington residents under age 18 are required to take a driver training class in order to obtain a driver's license, except under very limited and specific circumstances. These drivers may take their training classes within their public high schools or by attending classes at a driver training school.

Regardless of where the classes are held, the driver training classes must meet standards established by the Office of the Superintendent of Public Instruction (OSPI). Driver training schools must be annually approved by the OSPI.

Because the Department of Licensing (DOL) is also required to oversee the licensing of driver training schools and their instructors, driver training schools could be subjected to duplicate inspections of their business practices, facilities, records and insurance.

Summary: Driver training classes offered to Washington residents under age 18 by driver training schools must meet standards established by the DOL. Driver training schools must be annually approved by the DOL. A driver training school instructor who teach students under 18 must have a background check at his or her

own expense. The OSPI defines the curricula of courses offered by the public schools; the Driver Instructors Advisory Committee recommends the curricula of the courses offered by the driver training schools for approval by DOL. In addition, the advisory committee is required to update instructor certification standards and to take into consideration the standards required to be met by school teachers teaching drivers education in the public schools.

Votes on Final Passage:

House	95	0	
Senate	45	1	(Senate amended)
House			(House refused to concur)
Senate	45	1	(Senate amended)
House	95	0	(House concurred)

Effective: June 13, 2002

SHB 2568

C 208 L 02

Formalizing the relationship between the department of social and health services and the state school for the deaf.

By House Committee on Children & Family Services (originally sponsored by Representatives Dickerson, Tokuda, Kagi, Fromhold, Ogden, Chase, Jackley and McDermott).

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

Background: The Legislature established the Washington School for the Deaf (WSD) in 1886. The primary purpose of the school is to educate and train hearing-impaired children ages three through 21. The WSD is located in Vancouver and students who are not from the area may live on-campus in a cottage or dorm during the week.

During the past few years, a series of physical and sexual assaults have allegedly occurred at the WSD and over a half-dozen lawsuits have been filed against Washington for alleged physical and sexual abuse that occurred at the school. In 2000 legislation was enacted to address some of the concerns by providing training and allowing the school to refuse to enroll adjudicated Level III sex offenders. Another alleged sexual assault of a student occurred at the WSD in February 2001.

In June 2001 the Governor directed the superintendent of the WSD to implement certain safety initiatives. One of the initiatives directed the school to work with the DSHS Children's Administration's Division of Licensed Resources (DLR) to strengthen the residential program staffing model. Another initiative directed the WSD to convene a work group from the Attorney General's Office, the DLR, and the Child Abuse Intervention Center to ensure the school's reporting procedures and

incident documentation comply with best practices models.

At the Governor's direction, the DLR conducted a comprehensive health and safety review of the WSD. An on-site review by a DLR audit team occurred in December 2001, and the report was delivered to the Governor on January 11, 2002. The DLR made recommendations regarding the staffing level, supervision of students, self-protection training of students, the expulsion policy, and the completion of criminal history checks on staff. Quarterly health and safety reviews will be performed by the DLR and other Children's Administration staff. A comprehensive review will occur every three years.

In November 2001 the Office of the Family & Children's Ombudsman (OFCO) completed a review of the WSD and the reported sex-related incidents using confidential records not available to other reviewers. The OFCO made several significant findings, including inadequate incident documentation and record keeping and an inability of Child Protective Services (CPS) to adequately intervene to protect students at the WSD because the school is not a licensed facility. The OFCO recommended that the Governor or Legislature formalize and strengthen the relationship between CPS and the WSD. This includes authorization to investigate incidents at the WSD involving allegations of abuse or neglect. Also, the OFCO recommended that the DLR should have the authority to follow-up regarding the implementation of safety improvements by the school. Finally, the OFCO recommended that the annual review of the WSD by the DLR be embodied in statute or executive order.

Summary: The DSHS is required to investigate incidents at the WSD involving alleged child abuse or neglect, including incidents involving students victimizing other students. The DSHS must determine whether the alleged abuse or neglect occurred and if a referral to CPS or law enforcement is appropriate. Safety improvement recommendations developed by the DSHS as the result of an incident investigation will be sent to the WSD Superintendent and the Board of Trustees.

The DSHS will conduct periodic health and safety inspections of the residential program at the WSD. The inspections will be at least quarterly through 2006. A comprehensive child health and safety review by the DSHS must occur every three years, beginning in 2004. Upon the department request, the WSD must give the DSHS staff conducting the reviews full and complete access to all records, documents, students, and staff.

Votes on Final Passage:

House	95	0	
Senate	49	0	(Senate amended)
House	94	0	(House concurred)

Effective: June 13, 2002

HB 2570
C 228 L 02

Extending the period of time for federal assurances with respect to the forests and fish report.

By Representatives Doumit, Sump, Buck and Hatfield.

House Committee on Natural Resources
Senate Committee on Natural Resources, Parks & Shorelines

Background: The Forests and Fish Report was presented to the Forest Practices Board and the Governor's Salmon Recovery Office in 1999 as a set of recommendations for developing a forestry module for the state-wide salmon recovery strategy. This report was the impetus for the passage of the Forest and Fish legislation in 1999.

The Forest and Fish legislation was enacted on the premise that the requisite federal agencies would provide assurances of approval of this legislation and that additional restrictions outside of the Forests and Fish Report would not be necessary. The legislation includes provisions describing events that constitute a failure of assurances. Any interested person may contact the Governor and the Legislature if a failure of assurances occurs. The Governor is required to review the information and determine if a failure of assurances has occurred and submit a written report with recommendations to the Legislature if a failure has occurred. The Legislature would then take necessary action to modify the legislation or terminate the funding as it deems appropriate.

One of the grounds that constitutes a failure of assurances under this legislation is the failure of the federal agencies to issue a programmatic incidental take permit by June 30, 2003. The federal agencies had originally indicated that they would be able to develop this permit by this date. An incidental take permit provides protection for landowners, operators, and state and local governments from being sued for any incidental killing of species protected under the federal Endangered Species Act. The federal agencies responsible for issuing this programmatic incidental take permit will be unable to meet the 2003 deadline.

Summary: The time period for the federal government to issue an incidental take permit for the Forests and Fish Report in order to prevent a failure of assurances under the Forest and Fish legislation is extended from June 30, 2003, to June 30, 2005. It is clarified that all components of the Forest and Fish legislation and rules will be submitted together for federal review and that the Department of Natural Resources will keep the Legislature abreast of any developments.

Votes on Final Passage:

House	94	0	
Senate	39	0	(Senate amended)
House	94	0	(House concurred)

HB 2571

Effective: June 13, 2002

HB 2571 C 95 L 02

Authorizing port districts to pay claims or other obligations by check or warrant.

By Representatives Dunshee, Crouse, Dunn, Schmidt and Kirby.

House Committee on Local Government & Housing
Senate Committee on State & Local Government

Background: The treasurer of the county in which a port district is located is the district port treasurer, unless the commission is authorized to designate its own treasurer. The port commission of a port district is authorized to designate its own treasurer if the port district has received annual gross operating revenues of \$100,000 or more for the last three years, or if the port district was previously authorized by the county treasurer to appoint its own treasurer.

At its option, a port commission is authorized, prior to the receipt of taxes raised by levy, to issue warrants in anticipation of revenues to pay claims or other obligations. Such warrants are required to be redeemed from the first revenues available once the taxes are collected.

Summary: A port district that acts as its own treasurer may, by resolution, adopt a policy for the payment of claims or other obligations by warrant or by check. A check may only be issued when the applicable fund is solvent, otherwise, a warrant must be written. The port commission must designate the bank where checks are to be drawn and the officers authorized to sign the checks.

Votes on Final Passage:

House	97	0
Senate	46	0

Effective: June 13, 2002

ESHB 2574 C 309 L 02

Establishing demonstration sites for a statewide children's system of care.

By House Committee on Children & Family Services (originally sponsored by Representatives Ogden, Dunn, Tokuda, Hankins, O'Brien, Jarrett, Fromhold, Santos, Schual-Berke and Kenney).

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

Background: The Comprehensive Community Mental Health Services for Children and Their Families Program of the federal Center for Mental Health Services provides grants to states, communities, territories, and

Indian tribes and tribal organizations to improve and expand systems of care to meet the needs of children and adolescents with serious emotional disturbance and their families. The program supports at least 45 sites across the country, including Clark County, Washington.

This federal program promotes the development of service delivery systems through a "system of care" approach. A "system of care" is a coordinated network of agencies and providers that make comprehensive mental health and support services available to children and their families. Decisions about services are made based on the strengths and needs of the family as a whole, as well as the individual child with a mental health problem. Among the other child-serving systems that may participate in a system of care are: special education, substance abuse, juvenile justice, developmental disabilities, and child welfare.

The system of care model is based on three main concepts:

- The mental health service system must be driven by the needs and the preferences of the child and family.
- The management of services must be within a multi-agency collaborative environment, within a strong community base.
- The services offered, the agencies participating, and the programs generated must be responsive to children's different cultural backgrounds.

Summary: The secretary of the DSHS is required to establish demonstration sites for a system of care for children with emotional and behavioral disorders. Criteria for site selection are provided. "Children's system of care" is defined.

The goals of the children's system of care are set forth. Among these goals are: multiagency collaboration, expansion of system capacity, strengthening the role of families in system implementation, changes in financing and contracting, and cost effectiveness.

The secretary of the DSHS is required to assure the collaboration of providers of state operated and contracted services with the sites.

The Legislature states the expectation that local school districts will collaborate with the demonstration sites.

Evaluation criteria for the children's system of care are to be created by a citizens' advisory board and the demonstration site's participating agencies within 60 days of passage of the act. The evaluation criteria must be consistent with the demonstration site goals. The demonstration sites are required to submit an interim report to the House Children & Family Services Committee and to the Senate Human Services and Corrections Committee by December 1, 2002. A final report is due to the legislative committees by December 1, 2003.

Votes on Final Passage:

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

Effective: June 13, 2002

HB 2588
 C 96 L 02

Modifying the information required on a prescription label.

By Representatives Skinner and Cody.

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

Background: The statutory requirements related to information contained on a prescription label have not been modified since 1984. In addition to providing information about the dispensed drug, the prescriber, and the dispensing pharmacy, the pharmacist who dispenses the medication must initial the prescription label. Many pharmacies have moved to electronic record keeping systems.

Summary: The information required on a prescription label is updated and modified to allow the identification of the licensed pharmacist responsible for dispensing the medication to be recorded either in the pharmacy's record system or on the prescription label.

Votes on Final Passage:

House 86 0
 Senate 49 0

Effective: June 13, 2002

SHB 2589
 C 310 L 02

Providing for licensure of audiologists and speech-language pathologists.

By House Committee on Health Care (originally sponsored by Representatives Linville, Mulliken, Cody, Skinner, Veloria and Kenney).

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

Background: The Board of Speech and Hearing credentials speech-language pathologists, audiologists, and hearing instrument fitters/dispensers for practice. It acts as the disciplining authority for unprofessional conduct under the Uniform Disciplinary Act.

Speech-language pathologists and audiologists are certified by the Department of Health for practice. No person may use the titles of "certified speech-language pathologist" or "certified audiologist" without being

certified by the department in meeting educational and professional standards established by the Board of Hearing and Speech, and passing an examination.

Speech-language pathology includes the treatment of speech and language disorders that impede oral competencies and the normal process of communication. Audiology relates to hearing disorders that impede the process of human communication, and includes the application of aural rehabilitation and the fitting and dispensing of hearing instruments.

Hearing instrument fitters/dispensers are licensed by the department in meeting training and professional standards established by the board, and persons may not fit and dispense a hearing instrument or represent themselves as engaging in the fitting and dispensing of hearing instruments without being licensed.

Summary: Speech-language pathologists and audiologists must be licensed by the Department of Health in order to practice and represent themselves respectively in practice. Persons certified as education staff associates by the State Board of Education are exempted unless electing to obtain a license. Every person certified as a speech-language pathologist or audiologist by January 1, 2003, is entitled to be automatically licensed upon application.

Votes on Final Passage:

House 97 1
 Senate 47 0 (Senate amended)
 House 93 1 (House concurred)

Effective: January 1, 2003

SHB 2592
 C 12 L 02

Modifying community revitalization financing.

By House Committee on Trade & Economic Development (originally sponsored by Representatives Gombosky, Ahern, Eickmeyer, Clements, Grant, Dunn, Fromhold, Mulliken, Wood, Ogden, Linville, Hatfield and Conway).

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

Background: The Community Revitalization Financing (CRF) program was created in 2001. The CRF program authorizes counties, cities, towns, and port districts (local governments) to create tax increment areas within their boundaries where community revitalization projects are financed by diverting a portion of the incremental increase in the regular property taxes imposed by local governments within the tax increment area.

Community revitalization projects include traditional infrastructure improvements such as: (1) street and road construction and maintenance; (2) water and sewer

system construction; (3) sidewalks and streetlights construction; (4) parking, terminal, and dock facilities; (5) park and ride facilities of a transit authority; (6) storm water and drainage systems; and (7) park and recreation facilities. The term "community revitalization project" also includes project-related studies and analysis, professional management and promotion, management and promotion of retail trade activities, maintenance and security for common areas, and historic preservation.

The creation of a tax increment area requires that: (1) the local government adopts an ordinance designating the tax increment area within its boundaries and specifies the public improvements to be financed; (2) the local government taxing districts (not including the state) imposing at least 75 percent of the regular property taxes within this area sign a written agreement approving the tax increment financing; (3) the local government holds a public hearing on the proposal; (4) any fire protection district with territory located in the tax increment area approves the creation of the increment area and diversion of its incremental increase in regular property tax; and (5) the local government adopts an ordinance establishing the tax increment finance area.

Regular property taxes imposed by all local governments within the tax increment area on 75 percent of any increase in assessed valuation occurring in that area after its creation are diverted to finance the community revitalization projects. Regular property taxes imposed by any local government on all of the remaining value (the assessed valuation in the year before the tax increment area was created plus 25 percent of any increase in assessed valuation in the tax increment area) are distributed to the local government as if the tax increment area had not been created.

The ability of a local government to establish a tax increment area and use a portion of the increase in regular property tax to finance community revitalization projects expires July 1, 2010.

Summary: The CRF program is revised to clarify that a fire protection district must agree to participate in a community revitalization project in order for a local government to proceed with the financing of public improvements using the incremental increase in the local regular property tax.

A local government may issue non-recourse revenue bonds to finance revenue-generating public infrastructure improvements or portions of public infrastructure improvements that are located within a tax increment area. Any revenue bond issued by a local government to finance a revenue-generating public improvement is not considered a debt of the local government. All payments of principal and interest on the non-recourse revenue bonds must only be payable from the revenues generated by the operation of the public infrastructure improvement. No non-recourse bond may be issued with a term that exceeds 30 years.

The CRF program expiration date of July 1, 2010 is repealed.

Votes on Final Passage:

House 85 13

Senate 41 2

Effective: June 13, 2002

HB 2595

C 341 L 02

Providing funding for wireless enhanced 911 services.

By Representatives Morris, Anderson, Gombosky, Cox, Edwards, Nixon, Ogden, Santos, Delvin, Veloria, Conway, Cooper, Ruderman, Wood, Kagi and Sullivan.

House Committee on Finance

Senate Committee on Ways & Means

Background: *State and Local Enhanced 911 Taxes.* Emergency 911 telephone services allow callers to reach agencies that can dispatch the appropriate type of response. Enhanced 911 services (E911) allow the person answering the emergency call to identify the location of the calling party.

In 1991 the voters of Washington adopted Referendum 42, which imposed a 20 cent maximum per-month tax on each switched access telephone line (wireline) to support statewide coordination and management of the E911 system and to help supplement county-level operational costs. In 1998 the Legislature amended the 1991 law to prohibit distribution of state funds to any county that does not impose the maximum tax for emergency services communication systems. The maximum county taxing authority for these purposes is 50 cents per switched access line per month and 25 cents per radio access (wireless) line per month on lines located in the county.

The state E911 tax is administered by a state E911 coordinator. The coordinator is assisted by the E911 advisory committee, appointed by the Adjutant General of the state Military Department and composed of fire, safety, utility, telecommunication, and local government officials. There are 27 members on the advisory committee, including representatives of large and small local exchange telephone companies.

The 1991 law also provided wireline telecommunications companies with limited immunity with respect to the good faith provision of services or information relating to 911 communications.

In 1994 and 1998 the Legislature added provisions to the E911 tax to clarify certain administrative issues relating to collections, liability, and agency authority.

E911 and Wireless Carrier Regulatory Authority. While wireline carriers are regulated by the Washington Utilities and Transportation Commission, wireless carriers are not regulated by the state. Instead, wireless

carriers are regulated at the federal level by the Federal Communications Commission (FCC). Notwithstanding its authority, the FCC has not generally preempted state laws and rules concerning wireless communications issues relating to E911. Moreover, in certain areas, such as the development of technical and operational standards, the FCC has pushed the decision-making down to the state and local governmental levels.

In the 1994 state legislation authorizing counties to impose a wireless E911 tax of 25 cents per line per month, radio communications service (wireless) companies are defined to include certain entities that make facilities available to provide radio communications service, radio paging, or cellular communications for hire, sale, or resale. Because this definition is not linked to the FCC definition for commercial mobile service, the state tax base for the wireless E911 tax may become unaligned with federal regulatory coverage.

The 1994 state legislation also directed wireless companies to provide Automatic Number Identification (ANI) to Public Safety Answering Points (PSAPs) for 911 calls. While the FCC has not preempted that state law, several wireless carriers have refused to provide ANI to PSAPs on the grounds that the 1994 law conflicts with FCC orders issued in 1996 regarding the provision of E911 service by wireless carriers.

Federal Requirements Regarding the Development of Wireless Enhanced 911. The 1996 FCC order requiring wireless carriers to provide E911 service contains a two-phased approach. By April 1998 wireless carriers must provide ANI and cell sector locations for emergency calls (Phase I). By October 2001 wireless carriers must provide Automatic Location Identification (ALI), or actual latitude and longitude coordinates, so that most emergency calls could be pinpointed to within 410 feet of a caller's exact location (Phase II). These FCC requirements are mandatory to wireless carriers if the following conditions are met:

- A 911 call center requests ANI and cell sector location data (Phase I);
- The requesting call center is capable of receiving and using the data; and
- A funding mechanism is in place to recover costs of providing these E911 services.

On November 18, 1999, the FCC removed the requirement that a funding mechanism be in place to recover wireless carrier costs of providing these E911 services, but retained the requirement for PSAP cost recovery.

Mobile Telecommunications Sourcing Requirements. Under the federal Mobile Telecommunications Sourcing Act of 2000, state and local governments are required to allow mobile telecommunication transactions to be sourced to the customer's primary place of use. The federal law defines primary place of use as the street

address where the customer's use of the mobile telecommunications service primarily occurs.

Summary: The county 25 cent tax per month on each radio access line for basic 911 is redesignated as an enhanced 911 tax and increased to 50 cents. The tax base for the county tax is modified to provide that the tax applies to wireless lines whose place of primary use is within the county. The definition of radio communications service company as it applies under the county tax is updated to include the federal definition for commercial mobile radio services as well as facility- and nonfacility-based service resale companies. The definition is also modified under the tax to exclude paging companies.

A state enhanced 911 tax of 20 cents per month is imposed on each radio access line. Revenues from the state tax are deposited into the E911 account. The purposes for which the account may be used are expanded to include the implementation and operation of wireless E911 statewide, including adequate funding of counties and reimbursement of wireless carriers. None of the 20 cents may be distributed to a county unless the county has imposed the local 50 cent tax on each radio access line at the maximum rate.

The restriction on the distribution of funds to counties from the state E911 tax on switched access lines is modified so that the distribution is contingent on the imposition of the county E911 tax on only switched access lines at the maximum rate.

Representatives of large and small wireless companies are added to the E911 advisory committee. With the advice of the committee, the state E911 coordinator is required to set uniform standards for the transmission of 911 calls from wireless companies to E911 systems. The standards must not exceed standards of the FCC.

The administrative provisions of the E911 taxes are modified to reflect the additional state tax. Limited immunity for the good faith provision of 911 services and information is extended to wireless carriers.

The state ANI law is repealed.

Votes on Final Passage:

House	86	11
Senate	42	6

Effective: January 1, 2003

HB 2605
C 97 L 02

Changing provisions relating to aggregating value for purposes of determining the degree of theft.

By Representatives O'Brien, Morell, Jackley and Lovick.

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

Background: A person commits theft if he or she:

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

The degree and punishment for the theft can depend on the type of property or service stolen or the circumstances under which the property or service was stolen. The degree and punishment can also depend on the value of the property or service stolen.

- If the property or service stolen has a value of over \$1,500, the crime is theft in the first degree. Theft in the first degree is a class B felony with a seriousness level of II.
- If the property or service stolen has a value of over \$250, but not exceeding \$1,500, the crime is theft in the second degree. Theft in the second degree is a class C felony with a seriousness level of I.
- If the property or service stolen has a value of \$250 or less, the crime is theft in the third degree. Theft in the third degree is a gross misdemeanor.

If a series of thefts in a common scheme or plan would be considered third degree thefts separately, the thefts can be aggregated to determine the value of the theft. Courts have allowed aggregation when the thefts were from the same victim over a period of time or when the thefts were from different victims at the same time and place. However, thefts involving different victims in different places cannot be statutorily aggregated.

Summary: A series of separate third degree thefts can be aggregated if they are part of a criminal episode. A criminal episode occurs if the three or more thefts are committed by the same person from one or more mercantile establishments within a five-day period.

Votes on Final Passage:

House	98	0
Senate	46	0

Effective: June 13, 2002

SHB 2610
C 229 L 02

Providing criminal penalties for endangerment of children and dependent persons with a controlled substance.

By House Committee on Criminal Justice & Corrections (originally sponsored by Representatives Darneille, Morell, Tokuda, O'Brien, Upthegrove, Kirby and Campbell).

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

Background: *Controlled Substances Around Children.* A controlled substance is generally defined as a drug, substance, or immediate precursor that is included in the Uniform Controlled Substance Act and listed in various schedules with regard to their potential for abuse.

Generally, under the Uniform Controlled Substance Act, it is illegal for any person to possess, sell, manufacture, or deliver controlled substance. A person convicted of a controlled substance offense receives a sentence within the standard range for the offense which, under the Sentencing Reform Act, is calculated using the seriousness level of the current offense and the extent of the offender's criminal history.

Two-year sentence enhancements are often added to an offender's sentence for certain crimes involving controlled substances that are manufactured, sold, delivered, or possessed in public areas such as at or near schools, parks, public transit, drug free zones, or civic centers.

Furthermore, in methamphetamine cases, if a court makes a finding of fact or in a jury trial if the jury finds a special verdict that: (1) an offender manufactured methamphetamine or possessed ephedrine or pseudoephedrine with intent to manufacture methamphetamine and (2) the underlying crime was committed when a person under the age of 18 was present in or on the premises of the place where the methamphetamine was being manufactured, then an additional two-year enhancement is added to the offender's presumptive sentence.

Background Checks. Employers may require background checks on any prospective employee or volunteer who may have unsupervised access to children or vulnerable adults. If requested by a business or organization, the Washington State Patrol must disclose certain conviction records relating to the prospective employee. One of those records that must be disclosed is any conviction for "crimes committed against children or other persons" which include such offenses as murder, assault, robbery, rape, kidnapping, arson, burglary, and child abuse or neglect.

Summary: A new crime is created within the Criminal Mistreatment Act called "endangerment with a controlled substance."

Controlled Substances Around Children. A person commits endangerment with a controlled substance if the person knowingly or intentionally permits a dependent child or dependent adult to be exposed to, ingest, inhale, or have contact with:

- methamphetamine; or
- ephedrine, pseudoephedrine, or anhydrous ammonia that are being used in the manufacture of methamphetamine.

Endangerment with a controlled substance is a seriousness level IV, class B felony. (A person with no prior criminal history would receive a presumptive sentence range of three to nine months in jail.)

Background Checks. For the purpose of disclosing conviction records during background checks, the list of "crimes committed against children or other persons" is expanded to include endangerment with a controlled substance.

Votes on Final Passage:

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

Effective: March 28, 2002

EHB 2623

C 230 L 02

Adjusting the monetary threshold for "substantial development" under the shoreline management act.

By Representatives Grant, Cairnes, Reardon, Orcutt, Hatfield, Esser, Doumit, Anderson, Linville, Schoesler, Kessler, Jarrett, Berkey, Pflug, Alexander, Jackley, O'Brien, Nixon, Edwards, Mulliken and Haigh.

House Committee on Local Government & Housing
Senate Committee on Natural Resources, Parks & Shorelines

Background: The Shoreline Management Act (SMA), enacted in 1971, governs uses of state shorelines. The SMA includes specific legislative findings that pressures on shoreline uses and the impacts of unrestricted development on public and private shoreline property create the need to coordinate planning for shoreline development activities. The SMA also finds these pressures create the need to protect "private property rights consistent with the public interest."

The SMA applies to all shorelines of the state, including both shorelines and shorelines of state-wide significance. The SMA applies to all marine water areas of the state, together with the lands underlying them, to the western boundary of the state in the Pacific Ocean, to streams with a mean annual flow of 20 cubic feet per second or more, to lakes larger than 20 acres in area, and to reservoirs.

The SMA requires counties and cities with shorelines to adopt local shoreline master programs regulating land use activities in shoreline areas of the state and to enforce those programs within their jurisdictions. All 39 counties and more than 200 cities have enacted master programs.

The SMA's basic regulatory device is the prohibition of any development on the shorelines of the state not consistent with the SMA's policy and applicable Shoreline Management Master Program. The basic mechanism for enforcing the law is a permit system, which requires permits issued by local governments for most activities in the shoreline zone. There are three types of shoreline permits, substantial development permits, conditional use permits, and variance permits. No substantial development can be undertaken without first obtaining a permit from the local government in which the shoreline zone is located.

"Substantial development" means any development of which the total cost or fair market value exceeds \$2,500, or any development which materially interferes with the normal public use of the water or shorelines of the state. Certain developments, identified by statute, are exempt from the definition of substantial developments and, therefore, the permit requirements of the SMA.

Summary: The SMA is amended to increase the dollar threshold amount for what constitutes substantial development under the SMA from \$2,500 to \$5,000. In addition, the Office of Financial Management (OFM) must readjust the dollar threshold amount for inflation every five years, beginning July 1, 2007, based upon the consumer price index during that time period.

The OFM is directed to calculate the new dollar threshold amount and transmit it to the Office of the Code Reviser for publication in the Washington State Register at least one month before the new dollar threshold is to take effect.

Votes on Final Passage:

House	97	0	
Senate	43	3	(Senate amended)
House	94	0	(House concurred)

Effective: June 13, 2002

HB 2625

C 311 L 02

Allowing the use of purse seine and other lawful fishing gear in certain waters.

By Representatives Linville, Buck, Van Luven and Lysen.

House Committee on Natural Resources
Senate Committee on Natural Resources, Parks & Shorelines

SHB 2629

Background: The Legislature has in the past enacted exclusive commercial harvest opportunities in certain geographic areas of the state based upon the type of gear used. This was done as a way to resolve conflicts between competing commercial salmon harvest gear groups. These legislatively mandated areas that dictate an exclusive type of gear have been repealed, except for the Bellingham Bay region which limits commercial salmon fishing to gill netters.

Summary: The Fish and Wildlife Commission may authorize commercial fishing for salmon with gill net, purse seine, and other lawful gear in Bellingham Bay and the designated waters in that region.

Votes on Final Passage:

House	94	0
Senate	46	0

Effective: June 13, 2002
July 1, 2002 (Section 2)

SHB 2629 C 98 L 02

Regulating elevator contractors and mechanics.

By House Committee on Commerce & Labor (originally sponsored by Representatives Wood, Conway, Kenney, Dickerson and Lysen).

House Committee on Commerce & Labor
Senate Committee on Labor, Commerce & Financial Institutions

Background: The Department of Labor and Industries administers and enforces state laws providing for the safe operation, installation, inspection, and repair of publicly and privately owned elevators, escalators, and other similar conveyances. In general, these laws require owners to obtain installation permits from the department before conveyances are built, installed, moved, or altered. These laws also require owners to obtain operating permits for conveyances. The department must annually inspect and test conveyances. Consistent with its responsibility to administer and enforce these laws, the department has adopted rules and established fees for permits and inspections.

Summary: State laws governing conveyances are amended to: (1) establish licensing requirements for elevator mechanics and elevator contractors; and (2) create an elevator safety advisory committee. The licensing requirements include work experience, training, examination, and continuing education

Purposes. The purposes of state laws governing conveyances are expanded to include ensuring the safe design and maintenance of conveyances, and establishing minimum standards for elevator personnel performing work on conveyances. State laws are not intended to prevent the use of equivalent or superior systems,

methods or devices, so long as their equivalency is documented.

Licensing. General: Licenses for elevator mechanics and elevator contractors are established. The Department of Labor and Industries may issue licenses that are valid for two years. The department must adopt rules setting license issuance and renewal fees.

A person must be an elevator mechanic licensee and work under the direct supervision of an elevator contractor licensee to erect, construct, wire, alter, replace, maintain, remove, or dismantle a conveyance within a building. An exception for certain types of demolitions is provided.

Elevator Contractors: A person wishing to engage in the business of installing, altering, servicing, replacing, or maintaining elevators and certain other conveyances must apply to be a licensed elevator contractor under these laws and a registered general or specialty contractor under the contractor registration laws. An applicant must have either: (1) five years' work experience in elevator construction, maintenance, and service or repair; or (2) satisfactorily completed a written examination.

Elevator Mechanics: A person wishing to engage in installing, altering, repairing, or servicing elevators and certain other conveyances must apply to be a licensed elevator mechanic. An applicant must have: (1) an acceptable combination of experience and education including not less than three years' work experience in elevator construction, maintenance, and service or repair; and (2) satisfactorily completed a written examination.

Certain persons are entitled to become licensed elevator mechanics without an examination. Such applicants must have: (1) worked for an elevator contractor for not less than three years immediately before the act's effective date and applied for an elevator mechanic license within one year of the act's effective date; (2) completed and successfully passed the mechanic examination for a nationally recognized training program for the elevator industry; (3) completed a state-approved apprenticeship program for elevator mechanics; or (4) obtained a valid license from a state that has entered into a reciprocal licensing agreement with Washington and that has "substantially equal" licensing standards.

Temporary Licenses: The department may issue temporary elevator mechanic licenses. A licensed elevator contractor must certify that the applicant is qualified and competent. A temporary license is valid for 30 days and in a designated geographic area.

Continuing Education: Prior to renewal, licensees must complete a continuing education course on new and existing department rules. The course must consist of not less than eight hours of instruction, and be completed within one year prior to license renewal. A department-approved training provider must teach the course. Training providers must keep attendance records for 10 years.

The department may inspect such records.

Suspension and Revocation: The department may suspend or revoke a license, or subject a licensee to civil penalties, because of: (1) a false statement in the application; (2) fraud, misrepresentation, or bribery in securing the license; (3) a failure to give notice of a conveyance not in compliance with state law; and (4) a violation of other state laws governing conveyances.

The department must notify the licensee of its action and the reason for the action in writing. The licensee may request a hearing. If the department suspends or revokes a license because of fraud or error, and a hearing is requested, the suspension or revocation is stayed until the hearing is concluded and a decision is issued. If the department suspends or revokes a license because elevator personnel are not working in a safe manner, the suspension or revocation is effective immediately and may not be stayed. The department must remove a suspension or reinstate a revoked license if the licensee pays the assessed penalties and demonstrates that other licensing requirements are met.

Criminal Penalties: The construction, installation, relocation, alteration, maintenance, or operation of a conveyance without a license by any person is a misdemeanor. Each day without a license is a separate violation. If an applicant has requested the issuance or renewal of a license, but the department has not acted on the request, the violation cannot be prosecuted. The maintenance of a conveyance without a permit by an owner is also a misdemeanor.

Advisory Committee. An elevator safety advisory committee is established. The committee advises the department on rulemaking, enforcement, and administration, and other matters of concern to stakeholders. The committee consists of five persons appointed by the department director with the advice of the chief elevator inspector. Committee members serve for four years. The secretary of the committee is the chief elevator inspector. The committee meets quarterly and at other times at the discretion of the chief elevator inspector. The committee members do not receive compensation for per diem or travel expenses. The department may adopt rules necessary to establish and administer the committee.

Other. Standard of Care: In a suit for damages allegedly caused by a failure or malfunction of a conveyance, conformity with the department's rules is prima facie evidence that maintenance of the conveyance is reasonably safe.

Public Buildings: The department has jurisdiction over the maintenance of conveyances in public buildings, other than those located in and owned by cities with their own elevator codes.

Inspections: The department may conduct random on-site inspections and tests on existing installations to

ensure satisfactory performance by licensees and to develop public awareness programs.

Notice: The notice that licensees must provide to the department before completing work on a conveyance need not be in writing or be provided at least seven days before completion of the work.

Rulemaking: When adopting rules governing conveyances, the department may consult with engineering authorities and organizations concerned with standard safety codes, other rules governing conveyances, and elevator personnel qualifications.

Construction: State laws cannot be construed to relieve or lessen the responsibility or liability of a person for damages to persons or property caused by defects in an elevator or other conveyance. The state does not assume liability or responsibility for such defects or for acts or omissions arising under state laws.

Votes on Final Passage:

House 59 38
Senate 29 17

Effective: June 13, 2002

HB 2639

C 181 L 02

Continuing a moratorium that prohibits a city or town from imposing a specific fee or tax on an internet service provider.

By Representatives Ruderman, Crouse, Bush, Nixon, Casada, Carrell, Anderson, Hunt, Van Luven, Talcott, Benson, Murray, Miloscia and Esser.

House Committee on Finance
Senate Committee on Economic Development & Telecommunications

Background: The Internet is an international network that interconnects computers ranging from simple personal computers to sophisticated mainframes. Internet users can access or provide a wide variety of information, purchase goods and services, and communicate with other users electronically. Internet access and on-line service providers generally charge their customers subscription or usage fees.

The Business and Occupation (B&O) tax is Washington's major business tax. This tax is imposed on the gross receipts of business activities. Charges for Internet service are subject to B&O tax at the general service rate of 1.5 percent.

Cities and towns may impose gross receipt taxes on businesses. Rates for utility businesses are generally much higher than rates for other businesses, such as retailers. Utility rates cannot exceed 6 percent without voter approval. Rates for other businesses cannot exceed 0.2 percent without voter approval. Some higher rates that were in effect before 1982 are still allowed.

In 1997 the Legislature prohibited cities and towns from imposing any new taxes or fees specific to Internet Service Providers (ISPs) until July 1, 1999. In 1999 the Legislature extended this prohibition until July 1, 2002. Cities and towns may tax ISPs under generally applicable business taxes at a rate not to exceed the rate applied to a general service classification.

Summary: The prohibition on new taxes and fees specific to ISPs is extended from July 1, 2002, to July 1, 2004.

Votes on Final Passage:

House 94 0
Senate 48 0

Effective: June 13, 2002

HB 2641
C 150 L 02

Implementing the recommendations of the investment income tax deduction task force for the business and occupation tax.

By Representatives Gombosky, Cairnes, Kessler, Morris, Berkey, Edwards, Kenney, Linville, Ogden and Conway; by request of Governor Locke.

House Committee on Finance
Senate Committee on Ways & Means

Background: Washington's major business tax is the business and occupation (B&O) tax. The B&O tax is imposed on the gross receipts of business activities conducted within the state, without any deduction for the costs of doing business. All business activities are subject to the B&O tax unless there is a specific exemption or deduction. There is a B&O deduction for dividends received by a parent corporation from its subsidiaries. There is also a deduction for the investment of income for all persons other than those "engaging in banking, loan, security, or other financial businesses." In other words, only banking, loan, security, and "other" financial businesses pay the B&O tax on investment income. Private investors are not taxed. Investment income received by nonfinancial businesses is not taxed.

There has been some question and litigation over what "other financial business" means for B&O tax purposes. The Washington State Supreme Court has defined a financial business as one that meets both of these requirements: (1) The business has a primary purpose of earning income through utilization of significant cash outlays; and (2) the business is comparable to a banking, loan, or security business. This interpretation was most recently applied in the Simpson Investment Company case decided in July 2000. The Simpson Investment Company is a parent holding company of four corporations: Simpson Timber Company and its subsidiaries; Simpson Paper Company and its subsidiaries; Simpson

(formerly Western Pacific) Extruded Plastics and its subsidiary; and Simpson Foreign Sales Company. Simpson Investment gets the majority of its income as dividends from its subsidiaries. These dividends are exempt from tax and were not at issue in the case. Simpson Investment also gets a small portion of its income from interest on bank deposits, stock dividends, and profits from market hedging and futures trading. The Department of Revenue (DOR) assessed the B&O tax on this income. Simpson Investment appealed, and the supreme court upheld the department. The court held that Simpson Investment was a financial business.

During the 2001 session, the Legislature considered a number of proposals in response to the Simpson decision, and enacted legislation that was intended to delay any change in the manner or extent of taxation of certain investment income as a result of that decision. This legislation was vetoed by the Governor. However, the Governor directed the DOR to adhere to the spirit of the vetoed bill and to not change or expand the application of the law to include activities that were not previously subject to tax. He further directed the department to work closely with all affected parties to develop a new proposal for consideration by the Legislature. The department formed a task force and held several meetings during the interim between legislative sessions. The task force recommended legislation to the Governor.

Summary: The term "other financial business" is no longer used for B&O tax purposes. Instead, tax is specifically applied to banking businesses, lending businesses, security businesses, loans or the extension of credit, revolving credit arrangements, installment sales, and the acceptance of payment over time for goods or services.

Interest on loans between a subsidiary company and its parent are not subject to tax if the total investment and loan income is less than five percent of the annual gross receipts of the business.

Banking business means a national or state-chartered bank, a mutual savings bank, a savings and loan association, a trust company, an alien bank, a foreign bank, a credit union, a stock savings bank, or a similar entity chartered under banking laws.

Lending business means a person making secured or unsecured loans of money, or extending credit, when more than one-half of the gross income is earned from such activities and more than one-half of the business's total expenditures are incurred in support of such activities.

Security business means a securities broker, dealer, or broker-dealer, as those terms are defined in securities regulation laws. Mutual funds, family trusts, and other collective investment vehicles are not securities businesses, and are not subject to the B&O tax.

The existing deduction for dividends received by a parent company from its subsidiary is modified to expressly include distributions from capital account.

These dividends and distributions are also deductible when received from subsidiary entities that are not corporations.

Votes on Final Passage:

House	97	0	
Senate	39	10	(Senate amended)
House	94	0	(House concurred)

Effective: July 1, 2002

SHB 2648
PARTIAL VETO
C 312 L 02

Requiring additional information from certain capital budget applicants.

By House Committee on Capital Budget (originally sponsored by Representatives Murray, Esser, Reardon and McIntire).

House Committee on Capital Budget
Senate Committee on Ways & Means

Background: The Governor, through the Office of Financial Management (OFM), proposes a capital budget and 10-year capital plan each biennium. The OFM publishes a set of instructions to assist state agencies and others in applying to have a capital project included in the Governor's capital budget proposal. In its capital budget planning, the OFM must verify that recommended capital projects are consistent with the Growth Management Act (GMA).

The GMA was enacted in 1990 and 1991. It requires certain counties and the cities located in those counties to enact comprehensive plans and development regulations that are consistent with the GMA, and to meet other requirements. There are 29 counties fully planning under the GMA. All counties and cities must comply with certain provisions of the GMA (such as identifying and protecting critical areas). Counties and cities that are fully planning under the GMA must accommodate essential public facilities in their planning.

Summary: In its capital budget instructions, the OFM must require capital budget applicants to provide additional information for proposed major capital projects that are over \$5 million and are required to complete a predesign process. The applicant must provide a series of "yes" and "no" answers to a variety of questions relating to the project's impact on growth and development.

For all major capital projects, information must be provided to the OFM regarding:

- (1) whether there is region cooperation;
- (2) whether local or additional funds are leveraged; and
- (3) whether environmental impacts of the project are considered.

In addition, for major capital projects located in or serving a county or city fully planning under the GMA, information must be provided to the OFM regarding:

(1) whether the capital project is identified in the local comprehensive plan and development regulations; and

(2) whether the project is located in an urban growth area and (a) if so, whether the project supports planned growth, or (b) if not, whether the project affects future development patterns.

In preparing its capital budget document, the OFM must take into account this additional information to promote capital facilities expenditures that minimize unplanned or uncoordinated infrastructure and development costs, to support economic and quality of life benefits for existing communities, and to support local government planning efforts.

The Office of Community Development must provide staff support to the OFM and capital budget applicants to help collect the required information.

The Legislature must request a fiscal note whenever a purchase or exchange of land is proposed by most state agencies.

Votes on Final Passage:

House	98	0
Senate	49	0

Effective: June 13, 2002

Partial Veto Summary: The Governor vetoed provisions requiring additional information on the cost of certain projects and requiring the Legislature to obtain a fiscal note whenever a purchase or exchange of property is proposed by most state agencies.

VETO MESSAGE ON HB 2648-S

April 2, 2002

To the Honorable Speaker and Members,

The House of Representatives of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to sections 2 and 3, Substitute House Bill No. 2648 entitled:

"AN ACT Relating to the office of financial management;"

This bill adds a new section to the law governing budget instructions issued by the Office of Financial Management (OFM), and directs the Office of Community Development to assist in collecting capital budget information. The intent of the bill is to coordinate development of state facilities, and other capital infrastructure projects, with local jurisdictions at early stages of project planning. This is a goal I support.

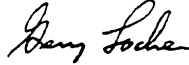
Sections 2 and 3 of the bill would have required estimates of total capital project cost to include the cost of the raw land, any revenues in lieu of property taxes, and the cost of development in OFM-issued fiscal notes. These requirements would be premature within the fiscal note development process, and costly to estimate for both the state and local government.

For these reasons, I have vetoed sections 2 and 3 of Substitute House Bill No. 2648.

EHB 2655

With the exception of sections 2 and 3, Substitute House Bill No. 2648 is approved.

Respectfully submitted,



Gary Locke
Governor

EHB 2655

C 117 L 02

Waiving filing fees and costs for certain protection orders.

By Representatives Schual-Berke, Esser, Lantz, Chase, Lysen, Nixon and Rockefeller; by request of Office of Community Development.

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

Background: A person being unlawfully harassed by another may petition the court for a civil anti-harassment protection order. A court may grant both an ex parte temporary protection order and, after a full hearing, a longer-term anti-harassment protection order. Both orders require the respondent to refrain from engaging in harassment.

A petitioner seeking an anti-harassment protection order is required to pay a filing fee to initiate the action. The filing fee is \$41 but is not imposed on the petitioner under certain circumstances. First, the fee may not be charged for a petition filed in an existing action or under an existing cause number where the protection order is sought in the same jurisdiction. Second, the fee may be waived if the petitioner can demonstrate that he or she lacks the funds to pay the filing fee and obtains leave of the court to proceed. Third, the court may require the respondent to cover the petitioner's filing expenses.

A petitioner seeking an anti-harassment protection order is also required to pay for costs related to service of process. When an ex parte temporary order is issued, the respondent must be personally served with a copy of the order, a copy of the petition, and notice of the date of hearing. The sheriff of the county or peace officer of the municipality in which the respondent resides is required to personally serve process, except in cases where the petitioner elects to have a private party serve the respondent. Sheriffs and municipal police departments are authorized to collect fees for service and mileage. A petitioner may avoid service of process costs if he or she demonstrates a lack of funds to pay and obtains leave of the court to proceed, or if the court requires the respondent to cover the petitioner's service of process costs.

In some cases, service of process is not made in a timely manner. In these situations, the court must set a

new hearing date and either require additional attempts at obtaining personal service or allow for service by publication. A court may only permit service by publication if the petitioner pays the cost of publication. These costs are avoidable only if the county legislative authority allocates funds for service of process by publication and the petitioner has demonstrated a lack of funds to pay, thereby obtaining leave of the court to proceed. An identical requirement applies to service of process in an action for a domestic violence protection order.

Summary: The filing fee and service of process costs are waived if the petitioner is seeking an anti-harassment protection order to obtain relief from: (1) a person who has stalked him or her; (2) a person who has engaged in conduct that would constitute a sex offense; or (3) a family or household member who has engaged in conduct that constitutes domestic violence.

In addition, in an action for a domestic violence protection order or an anti-harassment protection order, the court may allow service of process by publication if the petitioner's costs have been waived under these circumstances.

Votes on Final Passage:

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

Effective: June 13, 2002

HB 2657

C 166 L 02

Requiring the purchase of Washington grown commodities for state institutions.

By Representatives Hunt, Armstrong, Linville, Schoesler, O'Brien, Holmquist, Chase, Roach, Ogden, Clements, Cox, Mulliken, Barlean, Sehlin, Conway and Rockefeller.

House Committee on State Government
Senate Committee on Agriculture & International Trade

Background: The Department of General Administration (GA) purchases material, supplies, services, and equipment needed for use in state institutions, colleges, and departments. Alternatively, an agency may purchase material, supplies, services, and equipment directly from a vendor if the agency notifies the GA that it is more cost-effective. The GA may also delegate to state agencies authorization to purchase or sell materials, supplies, services, and equipment within a specified dollar amount.

With some exceptions and to the extent feasible, all purchases and sales must be based on competitive bids following a formal sealed bid procedure.

Summary: The GA must encourage state and local agencies to purchase Washington fruit, vegetables, and agricultural products when available.

The GA must work with the Department of Agriculture and other interested parties to identify and recommend strategies to increase public purchasing of Washington fruit, vegetables, and agricultural products and report back to the Legislature in September 2002 and January 2003.

Votes on Final Passage:

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

Effective: March 27, 2002

ESHB 2662
C 99 L 02

Making payroll deductions for individual providers as defined in RCW 74.39A.240(4).

By House Committee on Commerce & Labor (originally sponsored by Representatives McDermott, Wood, Miloscia, O'Brien, Cody, Conway, Edwards, Lysen, Chase and Santos).

House Committee on Commerce & Labor
House Committee on Appropriations
Senate Committee on Labor, Commerce & Financial Institutions
Senate Committee on Ways & Means

Background: Initiative 775, adopted by the voters in 2001, created the Home Care Quality Authority to regulate and improve the quality of long-term in-home care services. The authority's duties include recruiting, training, and stabilizing the work force of individual providers. These providers contract with the Department of Social and Health Services to provide personal or respite care to consumers who are functionally disabled persons under various programs. Under the initiative, the authority is considered the public employer of individual providers for collective bargaining purposes. Individual providers are not employees of the state for any purpose. The right to hire, supervise, and terminate individual providers is retained by the consumer.

These individual providers have collective bargaining rights under the public employees' collective bargaining law administered by the Public Employment Relations Commission (PERC). Under this law, if an exclusive bargaining representative is certified by the PERC or recognized by the employer, the employer must deduct union dues from the pay of a bargaining unit employee who has given written authorization for the deduction.

The collective bargaining law also allows the parties to include union security provisions in their collective

bargaining agreements. These agreements generally require bargaining unit employees to pay a representation fee equivalent to monthly union dues to the exclusive bargaining representative. Court decisions interpreting similar laws impose limits on representation fees and require exclusive bargaining representatives to have a procedure for determining how much of the fee is related to collective bargaining activities. Under these procedures, representative fee payers may choose to pay a monthly payment equivalent to the amount determined to be germane to collective bargaining activities and administration of the contract.

Summary: Collective bargaining provisions applicable to "individual providers" are revised. Individual providers are defined as in-home health care workers who are considered employees of the Home Care Quality Authority for collective bargaining purposes under Initiative 775.

After certification or recognition of an exclusive bargaining representative of individual providers, the state must deduct monthly union dues from payments made to an individual provider who has given written authorization for the deduction.

If a union security agreement is included in a collective bargaining agreement between the Health Care Quality Authority and the exclusive bargaining representative that covers a bargaining unit of individual providers, the state must enforce the agreement by deducting union dues or a fee equivalent to dues from payments made to bargaining unit members. In addition, on written authorization of the individual provider, the state must make other deductions from the payments made to an individual provider when the deductions are authorized in the collective bargaining agreement.

The state makes these required deductions as the payor and not as the employer of individual providers. The additional costs incurred by the state in making these deductions are subject to reimbursement as follows:

- The initial additional costs must be negotiated, agreed upon in advance, and reimbursed by the exclusive bargaining representative.
- The allocation of ongoing additional costs is an appropriate subject of collective bargaining between the Home Care Quality Authority and the exclusive bargaining representative. If the collective bargaining agreement does not contain a provision allocating the cost, or if the Legislature does not fund the agreement, the ongoing additional costs must be negotiated, agreed upon in advance, and reimbursed by the exclusive bargaining representative.

Votes on Final Passage:

House	53	44
Senate	30	19

Effective: June 13, 2002

2SHB 63
PARTIAL VETO

C 3000 02

Changing conditions that are presumed to be occupational diseases of fire fighters.

By House Committee on Appropriations (originally sponsored by Representatives Conway, Clements, Cooper, Reardon, Sullivan, Deavin, Simpson, Armstrong, Hankins, Benson, Cairnes, Lysen, Kirby, Edwards, Chase, Kenney, Campbell, Barlean, Santos, Talcott, Wood and Rockefeller).

House Committee on Commerce & Labor
House Committee on Appropriations
Senate Committee on Labor, Commerce & Financial Institutions
Senate Committee on Ways & Means

Background: A worker who, in the course of employment, is injured or suffers disability from an occupational disease is entitled to benefits under Washington's industrial insurance law. To prove an occupational disease, the injured worker must show that the disease arose "naturally and proximately" out of employment.

Members of the law enforcement officers' and fire fighters' retirement system plan II (LEOFF II) are covered for workplace injuries and occupational diseases under the industrial insurance law. For LEOFF II supervisory and actively employed full-time fire fighters, the industrial insurance law provides a presumption that respiratory diseases are occupational diseases. This presumption may be rebutted by a preponderance of controverting evidence, including the use of tobacco products, physical fitness, lifestyle, hereditary factors, and exposure from other employment or nonemployment activities. The presumption extends to a covered fire fighter for up to five years after terminating service (three months for each year of service).

A number of states allow fire fighters to use presumptions to establish that cancer, heart disease, various infectious diseases, or other conditions are work-related under disability or workers' compensation laws.

Summary: Legislative findings are made concerning the exposure of fire fighters to hazardous substances in fire environments and the increased risk of developing various conditions.

Three new categories are added to the list of diseases presumed to be occupational diseases for specified fire fighters under the industrial insurance law:

- heart problems experienced within 72 hours of exposure to smoke, fumes, or toxic substances;
- primary brain cancer, malignant melanoma, leukemia, non-Hodgkin's lymphoma and bladder, ureter, and kidney cancer. To be covered, an active or former fire fighter must have cancer that developed or manifested itself after at least 10 years of service

and must have had a qualifying medical examination at the time of becoming a fire fighter that showed no evidence of cancer;

- infectious diseases. "Infectious disease" means HIV/acquired immunodeficiency syndrome, all strains of hepatitis, meningococcal meningitis, and mycobacterium tuberculosis.

These new presumptions apply to supervisory and active full-time fire fighters in public employment who are covered by industrial insurance. In addition, the existing presumption for respiratory disease and the new presumptions apply to full-time, fully compensated fire fighters, including supervisors, employed by a private sector employer's fire department that has more than 50 fire fighters.

Beginning July 1, 2003, the occupational disease presumptions do not apply to a fire fighter who develops a heart or lung condition and is a regular user of tobacco products or has a history of tobacco use. The extent of tobacco use that excludes a fire fighter from the presumption must be defined in administrative rule.

Votes on Final Passage:

House	98	0	
Senate	48	0	(Senate amended)
House	94	0	(House concurred)

Effective: June 13, 2002

Partial Veto Summary: The Governor vetoed the legislative findings concerning the association of certain diseases with the employment conditions to which fire fighters are exposed.

VETO MESSAGE ON HB 2663-S2

April 3, 2002

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, Second Substitute House Bill No. 2663 entitled:

"AN ACT Relating to occupational diseases affecting fire fighters;"

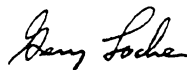
Second Substitute House Bill No. 2663 creates a rebuttable prima facie presumption that certain heart problems, cancer and infectious diseases are occupational diseases for fire fighters covered by industrial insurance. This is a law that I strongly support.

However, the assumptions in section 1 of this bill have not been clearly validated by science and medicine. Allowing those assumptions to become law could have several unintended consequences, including modifying the legal basis of the presumptions in section 2 of the bill, providing an avenue for the allowance of disease claims in other industries; and unnecessarily limiting the use of new scientific information in administering occupational disease claims.

For these reasons, I have vetoed section 1 of Second Substitute House Bill No. 2663.

With the exception of section 1, Second Substitute House Bill No. 2663 is approved.

Respectfully submitted,



Gary Locke
Governor

HB 2669
C 191 L 02

Including animal waste as a qualified alternative energy resource.

By Representatives Linville, Schoesler, Hunt, Chase and Wood.

House Committee on Technology, Telecommunications & Energy

Senate Committee on Environment, Energy & Water

Background: In 2001 the Legislature enacted a requirement that by January 1, 2002, all electric utilities (other than small electric utilities) must offer their retail consumers, at least quarterly, a voluntary choice to purchase electricity generated from alternative energy resources. Alternative energy resources include wind, solar, geothermal, landfill gas, wave action, gases from wastewater treatment, and qualified hydro power. In addition, biomass energy based on organic fuels from wood, forest, or field residue, or dedicated energy crops, that does not include wood treated with chemical preservatives, is considered an alternative energy resource. Consumers who choose a green option may pay a premium rate to support the generation of electricity from these sources.

There are a variety of sources of biomass energy. Generally, biomass energy utilizes the energy components of (1) agricultural residues from crops such as sugarcane, corn fiber and rice straw, (2) wood waste such as sawdust or timber slash, (3) energy crops such as fast growing trees (poplars, willows) and grasses (switch grass, elephant grass), and (4) methane from landfills, waste water treatment, and manure lagoons on cattle and hog farms to generate electricity, heat or fuels.

Summary: Animal waste is included as a source of biomass energy that qualifies as an alternative energy resource. Utilities may offer their retail customers the option of purchasing electricity generated from a source using animal waste resources to satisfy the requirement that they offer retail customers an option (green option) to purchase electricity from an alternative energy resource.

Votes on Final Passage:

House	98	0
Senate	49	0

Effective: June 13, 2002

E2SHB 2671
PARTIAL VETO

C 153 L 02

Creating the permit assistance center in the office of the governor.

By House Committee on Appropriations (originally sponsored by Representatives Linville, Romero, Reardon, Simpson, Gombosky, Grant, Veloria, Kessler, Conway, Doumit, Hatfield, Ogden, Morris, Kenney, Dickerson, Edwards, Chase, Schual-Berke, Wood, Rockefeller, Jackley, Kagi and McDermott).

House Committee on Agriculture & Ecology

House Committee on Appropriations

Senate Committee on Environment, Energy & Water

Senate Committee on Ways & Means

Background: The Permit Assistance Center (PAC) was created in 1995 in the Department of Ecology (DOE) to provide 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.

The PAC's statutory provisions were subject to a sunset provision. 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 budget continued funding for PAC operations, and it continues to operate within the DOE.

Summary: The Office of Permit Assistance (OPA) is created in the Office of Financial Management, to be administered by the Office of the Governor. All funding, powers, duties, functions, and records of the Permit Assistance Center (PAC) currently operating within the Department of Ecology (PAC) are transferred to the OPA. Provisions are included for transfer of PAC authority to the OPA and for validity of prior and pending actions.

The OPA is required to operate on the principle that state citizens should receive:

- a date and time for a decision on a permit;
- the information required to make a decision on a permit, recognizing that project changes or other circumstances may change the information required; and
- an estimate of the maximum amount of costs in fees, studies, or public processes that will be incurred by the project applicant.

For purposes of the OPA provisions, "permit" is defined as any permit, certificate, use authorization, or other form of governmental approval required to

construct or operate a project. Other definitions related to the OPA or permitted projects are included.

Duties of the OPA are specified. The OPA must provide information services, including permit handbooks and contact persons, and must develop a call center and a web site. The OPA also must provide facilitation services upon request, which include appointing a project facilitator to assist project applicants to determine applicable regulatory requirements, processes, and permits and providing information and options for obtaining required permits. The OPA also must complete a project scoping report within 60 days of request with relevant state and local permit agencies and the project applicant to identify issues and information needs regarding the project. Items to be identified through project scoping are identified. The outcome of the project scoping must be documented in written form, provided to the project applicant, and made available to the public. Neither the facilitation services nor its operating principles shall be construed to create an independent cause of action, affect an existing cause of action, or establish a cause of action for purposes of RCW 64.40.020.

Further, the OPA may provide active project coordination either: (1) upon the project applicant's request based on a written cost reimbursement agreement; or (2) with the project applicant's assent and at the OPA's expense when the OPA determines it is in the public interest to do so. The OPA must assign a project coordinator to, among other responsibilities, conduct a project scoping, serve as the project applicant's contact person, coordinate permit processes, and assist in resolving conflicts. The project coordinator may coordinate negotiations for a written cost reimbursement agreement.

The written cost reimbursement agreement may be negotiated to recover the reasonable costs incurred by the OPA, permit agencies, and outside independent consultants selected to perform permit review and processing consistent with the coordinated permit process. Only the costs of performing permit services coordinated through the coordinated permitting process may be recovered in this manner. Any independent consultants hired under the cost reimbursement agreement report directly to the permit agency. Provisions are included for development of a cost reimbursement policy; bidding, negotiation and development of the cost reimbursement agreement; avoiding conflicts of interest; billing; initiation of agency participation; and notification of a permitting agency's inability to meet its contractual obligations.

In addition to these responsibilities, the OPA must:

- work to develop informal processes for dispute resolution between agencies and project applicants;
- conduct customer surveys to evaluate its effectiveness;
- review initiatives developed by the Transportation Permit Efficiency and Accountability Committee to

determine if any would be beneficial if implemented for other projects;

- prioritize expenditures of general fund money to provide services to small project applicants; and
- provide 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.

An 11-member Permit Assistance Advisory Council (council) is created. The council includes seven members appointed by the Governor to represent business, the environmental community, agriculture, port districts, counties, cities, and tribes. Four legislative members, two from the Senate and two from the House of Representatives, serve on the council as nonvoting members. Council appointments must reflect geographical balance and population diversity. Members serve four-year terms, and provisions are included for staggering of initial terms, vacancies, reimbursements, meetings, and governance. The council must:

- assess the performance of the OPA;
- review annual customer surveys to determine the OPA's effectiveness; and
- recommend changes to improve OPA performance.

Provisions creating the OPA do not affect the jurisdiction of the Energy Facility Site Evaluation Council. The OPA provisions do not abrogate or diminish functions, powers, or duties granted to any permit agency and do not grant the OPA authority to decide if a permit will be issued.

The OPA provisions expire on June 30, 2007. The Joint Legislative and Audit Review Committee must work within its existing resources to conduct the sunset review of the OPA.

Votes on Final Passage:

House	72	26	
Senate	48	0	(Senate amended)
House			(House refused to concur)
Senate	46	1	(Senate amended)
House	95	2	(House concurred)

Effective: June 13, 2002

Partial Veto Summary: The Governor vetoed the emergency clause and the provisions creating the Permit Assistance Advisory Council.

VETO MESSAGE ON HB 2671-S2

March 26, 2002

*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 9 and 18, Engrossed Second Substitute House Bill No. 2671 entitled:

“AN ACT Relating to a permit assistance center within the department of ecology;”

Engrossed Second Substitute House Bill No. 2671 establishes an office of permit assistance in the Office of Financial Management (OFM) to be administered by the Governor. The bill will move the permit assistance center currently in operation at the Department of Ecology (DOE) to OFM, and extend its reach.

Section 9 of the bill would have established an eleven-member advisory council to assess the performance of the permit assistance office, review customer surveys, and make performance improvement recommendations, among other things. However, no funding was provided in the budget to support the advisory council, and such a council is not essential. The new office will provide biennial reports to the governor and the legislature, and DOE will also be forming an advisory committee.

The emergency clause in section 18 of the bill has also been vetoed. OFM, the Governor's Office and DOE will need time to establish the new office.

For these reasons, I have vetoed sections 9 and 18 of Engrossed Second Substitute House Bill No. 2671.

With the exception of sections 9 and 18, Engrossed Second Substitute House Bill No. 2671 is approved.

Respectfully submitted,



Gary Locke
Governor

HB 2672
C 173 L 02

Limiting the liability of providers of treatment to high risk offenders.

By Representatives Kirby, O'Brien, Ballasiotes, Morell, Darnelle, Lovick and Kagi.

House Committee on Judiciary
Senate Committee on Judiciary

Background: Dangerous Mentally Ill Offenders (DMIO). In 1999 the Legislature enacted the Dangerous Mentally Ill Offender Act. It requires the Department of Corrections (DOC) to identify offenders in confinement who: (1) are reasonably believed to be dangerous to themselves or others; and (2) have a mental disorder.

Prior to a DMIO's release, the DOC must create a team consisting of representatives from the DOC, regional support networks (RSN), appropriate divisions of the Department of Social and Health Services (DSHS), and other providers to develop a plan for delivery of treatment and support services to the offender upon release.

The team may propose any appropriate treatment plan including: (1) evaluation of the offender by the county designated mental health professional for involuntary civil commitment; (2) department-supervised community treatment; or (3) voluntary community mental health or chemical dependency treatment.

"Licensed service providers" are entities licensed under the mental health laws and individuals licensed as

osteopaths, physicians, psychologists, and certain registered nurses.

Providers Subject to Civil Actions for Damages. One of the elements that a plaintiff must show in an action for negligence is the existence of a legal duty that the defendant owed to the plaintiff. A person owing a duty to another may be liable for negligence if the plaintiff shows that the person breached his or her duty, the breach was the proximate cause of the person's injuries, and damages were incurred.

Generally, a person does not have a duty to protect others from the criminal acts of third persons. However, Washington courts have recognized an exception to this general rule where a special relationship exists between the defendant and either the third party or the foreseeable victim of the third party. Whether a person has a duty to protect another from the intentional acts of a third person depends upon the relationship between the parties and the extent to which the third party's conduct was foreseeable.

The Washington Supreme Court has held that a therapist may incur a duty to take reasonable precautions to protect another person who might foreseeably be endangered by the patient's mental illness. Reasonable precautions may include warning the person in danger.

Gross negligence is negligence substantially and appreciably greater than ordinary negligence. Willful or wanton misconduct is intentional activity done in reckless disregard of the consequences under circumstances such that a reasonable person would know that substantial harm to another is highly likely.

Summary: A licensed service provider or RSN acting in the course of the provider's or network's duties is not liable for civil damages resulting from injury or death by a dangerous mentally ill offender who is a client, unless the act or omission of the provider or network constitutes:

- (1) gross negligence;
- (2) willful or wanton misconduct; or
- (3) a breach of the duty to warn and protect from a client's threatened violent behavior if the client has communicated a serious threat of physical violence against a reasonably ascertainable victim.

The licensed service provider and RSN shall report an offender's expressions of intent to harm or other predatory behavior, whether or not there is a reasonably ascertainable victim, in progress reports to the courts and supervising entities assessing the progress and appropriateness of treatment.

A licensed service provider's or RSN's mere act of treating a dangerous mentally ill offender is not negligence, and the provider's or RSN's duty of care to the client is not altered.

The limited liability applies only to the conduct of licensed service providers and RSNs and does not apply to the conduct of the state.

SHB 2673

Votes on Final Passage:

House	97	0	
Senate	45	3	(Senate amended)
House	96	0	(House concurred)

Effective: June 13, 2002

SHB 2673

C 231 L 02

Regulating fire truck weight.

By House Committee on Transportation (originally sponsored by Representatives Cooper, Morell, Simpson, Chase, Ogden, Wood and McDermott).

House Committee on Transportation

Senate Committee on Transportation

Background: In 2001 legislation was enacted which established provisions allowing fire trucks under 24,000 pounds on a single axle or 43,000 pounds on a tandem axle set to operate without a Washington State Department of Transportation (WSDOT) permit. If a fire truck exceeded these weight limits, the act provided for the issuance of an annual permit, but the truck had to be in operation before July 1, 2001.

These two changes allow nearly all fire trucks to operate permit free, and overweight fire trucks that were already in service can continue operating legally. However, the act did not address overweight fire trucks that may be purchased after July 1, 2001, and it did not set a maximum weight limit that all fire trucks must not exceed.

These discrepancies, along with the ongoing concern over the damage caused by overweight vehicles, led to a measure that was included in the 2001-2003 transportation budget, requiring the House Transportation Committee to form a study group to look into the effect that the weight of these fire trucks has on the roadways, and to recommend how to balance their use with their impact on the roads. The end result of this interim study group was HB 2673, which reflects the group's findings and recommendations.

Summary: Fire trucks exceeding established weight criteria, which includes 24,000 pounds on a single axle or 43,000 pounds on a tandem axle set, must apply for an overweight permit with the WSDOT. The maximum weight a fire truck is permitted to weigh is 50,000 pounds on a tandem axle set. This weight limit must include the weight of a full water tank, if applicable; the weight of all of the equipment necessary for operation; and the normal number of personnel usually assigned to be on board, or four personnel, whichever is greater. At least four personnel must be present at the time the fire truck is weighed.

In order to obtain an overweight permit, fire districts must submit an application form to the WSDOT and

attach a current weight slip, which is to be obtained from a certified scale. The WSDOT must then transmit the application to the local jurisdiction in which the fire truck will be operating, so that the effected city and/or county can make a determination as to the need for any local travel restrictions within the fire truck's operating area.

The WSDOT is required to issue the overweight permit within 20 days of receiving the permit application. The overweight permits are to be issued on an annual basis, and any travel or route restrictions imposed by the WSDOT or local jurisdictions must be stipulated on the permit.

Fire trucks in operation in this state before the effective date of this act and privately-owned industrial fire trucks used for purposes of emergency response and mutual aid are each exempt from the prescribed weight limits. However, in order to prevent damage to any roadways or bridges, these exempt fire trucks must still obtain an annual overweight permit to allow the WSDOT and local jurisdictions to determine if there is a need for travel restrictions.

Fire trucks that do not have the proper overweight permits are prohibited from operating on city, county, or state roadways until the truck is within legal weight limits and a current permit has been issued by the WSDOT. Once the permit is issued, the fire district must notify the Washington State Patrol (WSP) that the fire truck is now in compliance with overweight permit regulations.

The WSP is authorized to conduct random spot checks of fire trucks to ensure compliance with overweight permit regulations. If a fire truck is found to be not in compliance, the WSP must issue a violation notice to the fire department, prohibiting the operation of the fire truck upon the roadways.

It is a traffic infraction to continue operating a fire truck on the roadways after a violation notice has been issued. The penalties are as follows: for a first offense, the penalty is \$50; for a second offense, the penalty may be no less than \$75; for a third or subsequent offense, the penalty may be no less than \$100. No individual liability will be attached to an employee or volunteer of the penalized fire department.

Votes on Final Passage:

House	93	0
Senate	47	0

Effective: June 13, 2002

ESHB 2688

C 313 L 02

Regulating commodity boards and commissions.

By House Committee on Agriculture & Ecology (originally sponsored by Representative Linville; by request of Department of Agriculture).

House Committee on Agriculture & Ecology
Senate Committee on Agriculture & International Trade

Background: *United States et al. v. United Foods, Inc.* was decided by the U. S. Supreme Court in June 2001. In its decision, the court declared a mandatory assessment on mushrooms for a federal promotional program to be an unconstitutional infringement on free speech. Although the Supreme Court had upheld a commodity assessment in a 1997 decision, in its 2001 decision, the Court noted important differences between this case and the previous case. For example, the Court stated that, in the previous case, the mandated assessments for speech were ancillary to a more comprehensive program restricting marketing autonomy; in the 2001 case, the advertising itself was the principal objective of the regulatory scheme.

Some agricultural commodity commissions have been created directly by statute. Examples of these type of commodity commissions are the Fruit Commission, Tree Fruit Research Commission, Apple Advertising Commission, Beef Commission, Dairy Products Commission, and Wine Commission. The state's Agricultural Enabling Acts of 1955 and 1961 provide procedures under which the producers of agricultural commodities may prepare marketing agreements and orders to create, by referendum, agricultural commodity boards and commissions for the commodities without further statutory authority. The first commission created in this way was the Wheat Commission, which was established under the 1955 enabling act.

In 2001 members of commodity boards and commissions created under the enabling acts were authorized to receive reimbursement of their actual travel expenses if the board or commission adopts a rule providing that reimbursement. If the board or commission does not, the reimbursement is as provided for other state employees.

Summary: I. Commodity Commissions Generally.

Commodity Board Regulation - Part of Overall Regulation. The statements of purpose for the 1955 and 1961 agricultural enabling acts are altered. They state that farmers and ranchers operate within a regulatory environment that imposes burdens, including those that may impair the producer's ability to compete in local, domestic, and foreign markets and it is in the overriding public interest that each agricultural commodity be promoted individually and as part of a comprehensive industry. The enabling acts and their rules are only one aspect of the comprehensively regulated agricultural industry. A

number of state and federal laws and rules are cited as being regulatory restraints on the industry.

The statements of purpose for the Beef Commission, Dairy Products Commission, Fruit Commission, Apple Commission, and Wine Commission are similarly altered. In addition to these industries being regulated under the statutes of these commissions, these industries are subject to a number of federal and state statutes and programs and federal marketing orders that are cited as being regulatory restraints on the industry. The director of Department of Agriculture may consult with commodity commissions to establish or maintain an integrated, comprehensive regulatory scheme.

Electronic Notices; Lists. Under the Agricultural Enabling Acts and the statutes creating the Beef, Dairy Products, Fruit and Wine commissions, mailing or sending required notices includes sending them electronically. Provisions regarding compiling, maintaining, and certifying lists of affected parties for referenda and other purposes, and the responsibilities for providing information for the lists, are altered or clarified for boards and commission created under the enabling acts and for the Dairy Products Commission.

Adopting Rules Determined by Referenda. When the adoption of rules by the Apple, Beef, Dairy Products, or Fruit commissions or a commission or board created under the enabling acts is determined by a referendum of affected parties, the rule-making is exempt from the provisions of the Administrative Procedure Act regarding pre-notice statements of inquiry and negotiated and pilot rule-making and from the Regulatory Fairness Act.

Funding for the Department of Agriculture. The director may adopt rules that provide for a method to fund the costs of staff support for all commodity commissions if the position is not directly funded by the Legislature and costs are related to the specific activity undertaken on behalf of an individual commission. The staff support must be limited to one-half full time equivalent employee for all commodity commissions.

Travel Reimbursement. Members of the Beef, Dairy Products, and Wine commissions and their employees are to be reimbursed for actual travel expenses for official business as defined by the commissions by rule. If not defined by rule, the reimbursement is as established by law for state employees. Employees of the Apple Commission are authorized to be reimbursed for actual travel expenses for in-state (not just out-of-state) travel.

Public Disclosure of Certain Records. The agricultural business records exempt from public disclosure include: the production or sales records required by the department to administer any of its programs, and financial and commercial information supplied to the department for the purposes of conducting a referendum, or with respect to marketing activities or individual producer's production information. The enabling acts and the statutes for the Tree Fruit Research Commission,

Fruit Commission, Dairy Products Commission, Wine Commission, and Beef Commission do not prohibit: the issuance of general statements based upon the confidential information that does not identify the information provided by any one person; or the publication of the name of a person violating a marketing order or agreement and a violation statement.

II. Boards and Commissions Created Under the 1955 and 1961 Enabling Acts. A marketing order under the 1961 enabling act may be one for agricultural commodities with like or common qualities or producers. Under the 1955 and 1961 acts, lists of affected entities may include the amount by unit of the affected commodity produced or handled during a designated period. For this purpose, a production period is either a minimum three-year period or as specified in a marketing order or agreement.

Board or Commission Membership. A marketing order or agreement may, after a referendum, permit the director to appoint a majority of the members of a board or commission, with certain statutorily provided procedures and guidance. Two options are established for providing those procedures and guidance. However, not less than one-third of board or commission members must be elected by affected producers. If there is a vacancy in a director-appointed position, the remaining board or commission members must recommend a qualified person for the appointment and the director must appoint the person recommended unless he or she fails to meet the qualifications of board or commission members listed in the marketing order and its enabling act. Each handler member of a board must be at least 18 years old (rather than 25). The definition of "person" is expanded and no more than one board member may be part of one such "person." The director is a member of a commission created under the 1955 act unless otherwise specified in the commission's marketing order.

Amending a Marketing Order or Agreement. A commodity board expressly may petition the director to issue or amend a marketing order or agreement. The director may adopt amendments to marketing agreements or orders under the enabling acts without conducting a referendum if the proposed amendments relate only to internal administration of a marketing order or agreement and are not subject to violation by a person; or adopt or incorporate by reference without material change state or federal statutes or rules and the material regulates the same activities as are authorized under the marketing order. The director may also adopt such amendments without a referendum if the content of the amendments is explicitly and specifically dictated by statute.

Terminating or Suspending an Order or Agreement. Procedures and conditions for terminating a marketing order or agreement are specified. If the referendum to terminate is affirmed by referendum, the director must

adopt the termination. If it is not affirmed, the director is to take no further action on the referendum. Inadvertent failure to notify an affected producer does not invalidate the referendum. If petitioned by 100 percent of the affected producers to terminate a marketing order or agreement, the director may terminate it without conducting a referendum at the end of the marketing season. Requirements are modified for settling the business of a terminated commodity board and for transferring files to the department. The director is not required to hold a hearing or referendum more than once in 12 months on petitions to issue, amend, or terminate a commodity board or commission if the action requested is similar to certain others. The director may, upon the request of a commodity commission, suspend the commission's order or the term or provision of an order for a period of not to exceed one year, if the director finds that the suspension will tend to effectuate the declared policy of the 1955 act.

Tallying Referenda Results. Requirements are established for tallying the results of referenda, providing the results to affected parties, and disputing those results. After all matters are resolved and finalized, the individual ballots may be destroyed. Notice procedures for conducting hearings on proposals to issue, amend, or terminate a marketing order and for proposing the issuance of a marketing order under the 1955 act are altered.

Other. The director may adopt rules for carrying out the director's duties under the enabling acts. A commodity board or commission must reimburse the director for costs incurred in administering the act and for costs when the board petitions the director to amend or terminate a marketing order. The funds of commissions may also be invested in savings or time deposits of financial institutions out-of-state, rather than only those in-state.

Repealed are statutes that: provide general statements of legislative intent for the enabling acts; allow hearings and permit an administrative law judge to preside over inquiries or investigations under the 1961 act; create a Marketing Act Revolving Fund and require all income received under the 1961 act to be deposited in the fund; and allow the hop and mint commodity boards to raise assessments to specified levels in excess of the fiscal growth factor.

III. Beef Commission. The Beef Commission's assessment on the sale of cattle is increased to \$1 per head (from 50 cents per head). The additional assessment allowed for cattle subject to assessment under federal order for national beef promotion and a research program is decreased to 50 cents per head (from \$1 per head).

The commission may subpoena witnesses and issue subpoenas for the production of records for the purpose of enforcing the Beef Commission laws.

IV. Dairy Products Commission. The Dairy Products Commission is authorized to retain the services of

private legal counsel to conduct legal actions on behalf of the commission. The retention is subject to review by the Office of the Attorney General. The commission is also authorized to: establish foundations using commission funds as grant money when the foundation benefits the dairy products industry; accept and expend or retain gifts, bequests, contributions, or grants to carry out the purposes of the commission's statutes; engage in appropriate fund-raising activities to support activities of the commission; expend funds for commodity-related education, training, and leadership programs; and work cooperatively with other agencies, universities, and other organizations. Rather than conducting "advertising," the commission is authorized to take actions that "build demand."

The statutory minimum for the commission's milk assessment is altered. It is either 0.75 percent of the Class I price for whole milk or, while the federal Dairy and Tobacco Adjustment Act's dairy promotion program is in effect, it is the combination of: 0.625 cents per hundredweight, and an assessment rate not exceeding the rate approved at the last referendum that would achieve 10 cents per hundredweight credit to local, state, or regional promotional organizations under the act. The authorized educational use of the commission's assessment on Class II milk is altered. The commission may subpoena witnesses and issue subpoenas for the production of records for the purpose of enforcing the Dairy Products Commission laws.

A member of the commission may be a member or officer of an association with the same purpose as the commission and the commission may contract with the association for services. The extent of the waiver of liability currently provided for the state and for actions of commission members and employees of the commission is clarified.

V. Fruit and Apple Commissions. The Fruit Commission's assessments are due upon receipt of an invoice for them. The assessments are the personal debt of the person assessed or who owes the assessment. The commission may add up to 10 percent of the amount of delinquent assessment to defray the costs of collection. The department must withhold inspection services under the grades and packs statutes from a delinquent party.

The name of the Apple Advertising Commission is changed to the Apple Commission. The commission may decrease, not just increase, assessments. Rather than an assessment being based only on a rate per hundred pounds of apples, the commission may use a reasonable equivalent net product assessment. The latter may include a different rate for a specific variety or for fresh apples sliced or cut for raw consumption. Such sliced or cut apples are fresh apples and, therefore, subject to assessment.

In a civil or criminal action or proceeding for a violation of any prohibitions against monopolies or combina-

tions in restraint of trade, including any action under the state's consumer protection laws, proof that the act complained of was done in compliance with and in furthering the purposes of the Fruit Commission's or Apple Commission's statutes is a complete defense to the action or proceeding. The Fruit Commission may serve as an advisory committee to the director regarding the adoption of rules on grading, packing, and size and dimensions of containers for soft tree fruit and setting the grades of soft tree fruit and issuing certificates of inspection.

VI. Other. The Hop Commodity Board is authorized to enter contracts with individual producers of hops to set aside or remove existing acreage from hop production until the need for such contracts is eliminated based on the adoption of a federal marketing order. The department must conduct a study regarding forming an organic food commission and report its recommendations to the Legislature concerning enabling legislation and funding for such a commission by December 15, 2002.

The allocations the director may make from the Fair Fund include allocations of interest income accruing to the fund. The provisions of law describing the uses of the Fair Fund identify the exclusive uses of the fund. The specifically authorized use of the fund for administrative expenses is confined to expenses for administering the fair fund statutes, including expenses incurred by the Fair Commission.

Votes on Final Passage:

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

Effective: April 2, 2002 (Sections 1, 15, 17, 29, 30, 39, 45, 57, 58, 137, 138)
July 1, 2002

2SHB 2697

C 154 L 02

Incorporating effective economic development planning into growth management planning.

By House Committee on Appropriations (originally sponsored by Representatives Reardon, Anderson, Berkey, Pflug, Sullivan, Nixon, Esser, Delvin, Jarrett, Upthegrove and Simpson).

House Committee on Local Government & Housing
House Committee on Appropriations
Senate Committee on State & Local Government

Background: The Growth Management Act (GMA) requires a county and its cities to plan if the county meets specified population and growth criteria. Counties not meeting these criteria may choose to plan under the GMA. Currently, 29 of 39 Washington counties are required or have chosen to plan under the major GMA requirements (GMA jurisdictions).

The GMA establishes 13 planning goals that must be considered, including encouraging economic development and growth in areas with insufficient growth, reducing sprawl, encouraging urban growth in urban areas, processing permits in a timely and fair manner, and protecting private property rights. The planning goals are not listed in any particular order and are only intended to guide development of comprehensive plans and development regulations.

The GMA requires all counties and cities in the state to designate and protect critical areas and to designate natural resource lands. The GMA imposes additional requirements on GMA jurisdictions, including identification and protection of critical areas; identification and conservation of agricultural, forest, and mineral resource lands; and adoption of county-wide planning policies to coordinate comprehensive planning among counties and their cities.

The GMA also requires GMA jurisdictions to adopt comprehensive plans with certain required elements. First, the comprehensive plan must include a *land use element* that designates the proposed general distributions, location, and use of land. Second, a *housing element* is included to inventory available housing and identify sufficient land for housing. Third, the plan must include a *capital facilities plan element* that identifies existing capital facilities and forecasts future capital facilities needs and funding. Fourth, the plan must also have a *utilities element* to describe the general location and capacity of existing and proposed utilities. Fifth, a *rural element* must specify policies for land development and uses for lands that are not designated for urban growth or natural resource uses. Finally, the plan's *transportation element* implements the land use element and identifies facilities and service needs, level of service standards, traffic forecasts, demand management strategies, intergovernmental coordination, and financing.

Summary: An economic development element is added to the list of required elements in a comprehensive plan. The element requires establishing local goals, objectives, and provisions for economic growth, vitality, and quality of life. A city that has chosen to be a residential community is exempt from this requirement. The element must include:

- an assessment of the economic contributions made by existing commercial and industrial sectors to the community or region;
- an assessment of opportunities for business retention, expansion, recruitment, and economic benefits of natural amenities;
- an assessment of future needs, including needs for capital facilities, land use, and housing, to manage projected growth and foster economic vitality; and
- an evaluation of impacts from new and existing businesses to determine effects on job retention, expansion,

and enhancement opportunities to the economic development element.

A park and recreation element is added to the required elements of a comprehensive plan that is to be consistent with the parks and recreation element of the capital facilities plan element. The parks and recreation element requires estimates of demand for a 10-year period; an evaluation of facilities and service needs; and an evaluation of intergovernmental coordination opportunities to provide regional approaches for meeting park and recreation demand. Park and recreation facilities are added as a required part of the capital facilities plan element.

The new required elements only apply with specific funding by the Legislature at least two years prior to scheduled updates and must be adopted concurrent with the scheduled review of comprehensive plans.

Votes on Final Passage:

House	98	0	
Senate	40	0	(Senate amended)
House	90	8	(House concurred)

Effective: June 13, 2002

SHB 2699

C 232 L 02

Providing immunity for communications with government agencies and self-regulatory organizations.

By House Committee on Judiciary (originally sponsored by Representatives Lantz, Ahern, Benson, Crouse, Morell, Miloscia, Schindler, Dunshee and Esser).

House Committee on Judiciary
Senate Committee on Judiciary

Background: In 1989 the Legislature passed a law to help protect people who make complaints to government from civil suit regarding those complaints. The law was a request from the Governor and Attorney General to address concerns that arose from a situation where a citizen reported a tax violation to a state agency, and the person who was in violation of the tax law sued the citizen for defamation. This type of suit is referred to as a SLAPP suit. SLAPP stands for "Strategic Lawsuit Against Public Participation." SLAPP suits are instituted as a means of retaliation or intimidation against citizens or activists for speaking out about a matter of public concern. Typically, a person who institutes a SLAPP suit claims damages for defamation or interference with a business relationship.

The anti-SLAPP law passed in 1989 provides that a person who in good faith communicates a complaint or information to any federal, state, or local governmental agency is immune from civil liability for any claim relating to that communication. An individual who prevails with the immunity defense is entitled to recover costs

and reasonable attorneys' fees incurred in establishing the defense. This provision is also applicable to communications made to a self-regulatory organization that regulates persons in the securities or futures business and that has been delegated authority by a government agency and is subject to oversight by that agency.

Under appellate court interpretation of this statute in cases involving defamation actions, the court has held that the plaintiff has the burden of showing that the communication was not made in good faith, by showing that the communication was made with knowledge that it was false or with reckless disregard for its truth. A recent appellate court case found that the statute's application to communications made to a government "agency" includes communications made to the courts.

Summary: A legislative finding and intent section is provided stating that: SLAPP suits are intended to intimidate the exercise of First Amendment rights and rights granted under Article I, Section 5 of the Washington Constitution; the anti-SLAPP law has failed to set forth clear rules for early dismissal of these kinds of suits; and United States Supreme Court precedent has established that as long as government petitioning is aimed at having some effect on government decision-making, the petitioning is protected, regardless of content or motive, and the case should be dismissed.

The anti-SLAPP law is amended to remove the requirements that the communication be made in good faith and to cover communications to a branch of the federal, state, or local government. In addition, the law is amended to allow a person who prevails on the defense to recover "expenses," as opposed to "costs," incurred in establishing the defense and statutory damages of \$10,000. The court may deny statutory damages if it finds the communication was not made in good faith.

Votes on Final Passage:

House	97	0	
Senate	47	0	(Senate amended)
House	94	0	(House concurred)

Effective: June 13, 2002

ESHB 2707
C 233 L 02

Modifying the commencement date for long-term caregiver training.

By House Committee on Health Care (originally sponsored by Representatives Edwards, Skinner, Cody and Schual-Berke).

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

Background: In 2000 the Legislature mandated training for caregivers in all long-term care settings. The man-

dated training includes basic and specialty training. A steering committee for community long-term care training and education was established to advise the Department of Social and Health Services on rules related to training materials, competency testing, training effectiveness, and other training matters. The statutory training standards take effect March 1, 2002.

Summary: The statutory training standards implementation date is moved from March 1, 2002, to September 1, 2002. Boarding home and adult family home operators may attest that their in-house training complies with the Department of Social and Health Services (DSHS) standards. The steering committee on community long-term care training and education will terminate on July 1, 2003, rather than July 1, 2004. Its responsibilities are limited to providing advice to the DSHS.

Votes on Final Passage:

House	97	0	
Senate	39	0	(Senate amended)
House	97	0	(House concurred)

Effective: March 28, 2002

HB 2715
C 182 L 02

Revising state convention and trade center marketing provisions.

By Representatives Murray and Esser.

House Committee on Trade & Economic Development
Senate Committee on State & Local Government

Background: In 1982 the Legislature imposed an additional hotel-motel tax to fund the construction and operation of the Washington State Convention and Trade Center (WSCTC) located in Seattle. The additional state sales tax is imposed on the renting of hotels and motels in King County that contain more than 60 lodging units. The rate of the additional state sales tax is 7 percent in Seattle and 2.8 percent in King County outside the city of Seattle.

In 1988 the Legislature authorized the expansion of the WSCTC facilities. The WSCTC corporation was also authorized to contract with the Seattle-King County Convention and Visitors Bureau (SKCCVB) for the marketing of the WSCTC's facilities and services. Any contract had to include a provision that required each dollar provided to the SKCCVB by the WSCTC must be matched by at least \$1.10 in non-state funds.

Summary: The contract provision that required a match of \$1.10 in non-state funds to every \$1.00 provided by the WSCTC to the SKCCVB is removed. The funds were used for the marketing of the facilities and services of the WSCTC by the SKCCVB.

Votes on Final Passage:

House 85 13
Senate 44 3

Effective: June 13, 2002

EHB 2723
C 114 L 02

Revising Public-Private Transportation Initiatives.

By Representatives Ogden, Rockefeller, Lantz, Jackley, Eickmeyer, Haigh and Chase.

House Committee on Transportation
Senate Committee on Transportation

Background: The Legislature enacted the Public-Private Initiatives Act (PPIA) in 1993. The PPIA authorizes the Secretary of Transportation to select up to six demonstration projects using the private sector to undertake projects on behalf of the Washington State Department of Transportation (WSDOT). In June of 1999, the WSDOT entered into a public-private initiative (PPI) agreement with United Infrastructure of Washington, Inc. (UIW) to finance, develop, build and operate the Tacoma Narrows Bridge project.

The Peninsula Neighborhood Association (PNA) filed suit, alleging that the PPIA was unconstitutional and that the WSDOT failed to comply with several statutory provisions of the act. On November 9, 2000, the Washington Supreme Court issued a unanimous decision with the following conclusions:

- The PPIA is a constitutional delegation of authority to identify toll bridges and set toll rates.
- The challenge to the advisory election is barred because the PNA delayed its challenge.
- The agreement between the WSDOT and UIW violates state law because it allows tolls on the existing bridge, it allows a private entity to set tolls instead of the Transportation Commission, and it allows tolls to be used for the maintenance and operation costs of the existing bridge.

As a result of the supreme court ruling, the WSDOT and UIW sought legislative relief from the provisions of law found to conflict with their PPI agreement. The specific changes needed are: 1) authorization to toll the existing Tacoma Narrows Bridge; 2) clarification that tolling the existing bridge can be accomplished by the special purpose entity (non-profit board) rather than the Transportation Commission; and 3) authorization to pay for maintenance and repair of the existing bridge from specific toll revenues, rather than from state transportation funds generally. The WSDOT and UIW have found these changes necessary in order to proceed with private bond issuance and the project as currently designed.

An alternative approach to financing this project has been proposed. This alternative approach would keep

the Transportation Commission as the public toll authority; pay for maintenance and repair of the existing bridge from state transportation funds rather than toll revenues; and allow state transportation bonds in lieu of financing provided by the developer.

On December 27, 2001, the WSDOT and United Infrastructure of Washington reached an agreement that commits each party to work toward amending the existing development agreement to incorporate public financing for the project, should legislation be enacted that directs that type of financing.

Summary: The Public-Private Initiatives Act is amended to allow greater flexibility for PPI projects to be financed with either public or private funds. In those instances where the Legislature specifically provides state financing, the Secretary of Transportation must incorporate public financing provisions into any agreement to which the state is party. If the other parties to the agreement refuse to utilize state financing as directed by the Legislature, the Secretary of Transportation may not proceed with such agreement.

The WSDOT is authorized to provide for the establishment and construction of public toll facilities that are selected for development under the PPIA. The Transportation Commission is authorized to act as toll authority to impose tolls for PPI projects that provide for state-financed toll bridges. The commission is granted legislative approval as required under Initiative 601 to increase bridge tolls in excess of the fiscal growth factor, if necessary to meet the financial obligations of the project.

A special account is created for the Tacoma Narrows PPI project. Toll revenues and bond proceeds must be deposited into this account and used strictly for the Tacoma Narrows PPI project. Tax deferrals that are available to the private partner for this project are made available to the WSDOT if the project is publicly financed.

The prohibition against tolling the existing Tacoma Narrows Bridge is amended to allow tolling so long as any state-provided financing is utilized.

A citizen advisory committee is created to review and make recommendations on proposed changes to toll rates for PPI projects. The committee must be comprised of residents of the affected PPI project area.

A legislative oversight committee is created to monitor the development and implementation of any PPI project. One member from each caucus of the Legislature would be appointed to the oversight committee.

Clarification is provided that any PPI project that has been subject to an open, competitive selection process is not subject to any additional selection processes.

Votes on Final Passage:

House 52 44
Senate 28 21 (Senate amended)
House (House refused to concur)
Senate 42 6 (Senate receded)

Effective: June 13, 2002

HB 2732
C 314 L 02

Excluding government subsidized social welfare compensation from taxation.

By Representatives Gombosky, Cairnes, Berkey, Nixon, Morris, Armstrong, Esser, Fromhold, Ogden, Conway, Hunt, Van Luven, Veloria, Romero, Reardon, Edwards, Chase, Morell, Santos, Kenney and Wood.

House Committee on Finance
Senate Committee on Ways & Means

Background: Washington's major business tax is the business and occupation (B&O) tax. This tax is imposed on the gross receipts of business activities conducted within the state. Nonprofit organizations pay B&O tax unless specifically exempted by statute. Exemption from federal income tax does not automatically provide exemption from state taxes.

Specific B&O exemptions and deductions, covering all or most income, exist for several types of nonprofit organizations. The eligibility conditions vary for each exemption or deduction.

SHB 1624, adopted in 2001, provided a deduction for nonprofit hospitals and public hospitals from B&O tax on payments they receive from organizations under contract with the federal or state government to manage health benefits for medicare, medical assistance, children's health, or the basic health plan. A deduction already existed for these payments when made directly by federal, state, or local governments.

SHB 1624 contained a section that applied the deduction to taxes collected after the act's effective date, including amounts from reporting periods before the act's effective date.

The Governor vetoed this section of SHB 1624 stating that: "The retroactive nature of the provision is not fair to taxpayers who have timely reported and remitted their taxes. Taxpayers who failed to pay their taxes due before the effective date of this bill would have been rewarded for being delinquent, while those who paid on time would not receive a refund..."

Summary: The tax deduction available to nonprofit hospitals and public hospitals for payments for health benefits under medicare, medical assistance, children's health, or the basic health plan is restated in a new section. The deduction does not apply to patient copayments or deductibles.

Nonprofit hospitals and public hospitals are entitled to retroactive relief for B&O taxes on payments for health benefits under medicare, medical assistance, children's health, or the basic health plan. Taxpayers who

remitted tax are entitled to a refund dating back to January 1, 1998. Tax liability for unpaid taxes is waived.

Votes on Final Passage:

House	97	1
Senate	48	0

Effective: April 2, 2002

SHB 2736
C 151 L 02

Authorizing the University of Washington and Washington State University to make financing arrangements for research facilities.

By House Committee on Capital Budget (originally sponsored by Representatives Murray, Esser, McIntire, Lantz, Jarrett, Ogden, Lysen, Chase, Haigh and Kenney; by request of University of Washington).

House Committee on Capital Budget
Senate Committee on Higher Education
Senate Committee on Ways & Means

Background: Generally, new capital facilities for all state agencies and higher education institutions must be specifically approved 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, parking, and facilities for student activities. Typically the bondholders are secured only by the university's revenues from its facilities; the debt is not a general obligation of the state.

The University of Washington (UW) and Washington State University (WSU) are considered research universities, which means faculty and students do a significant amount of basic and applied research in addition to traditional academic programs. The UW receives about \$700 million in research grants annually, while WSU receives about \$100 million annually.

When a university receives research grants, it also receives an additional amount to cover costs associated with the grant. About half of this indirect cost recovery (ICR) goes to administration and half to facilities (operating and maintenance, interest, etc.).

Summary: The UW and WSU are authorized to own and finance research facilities and related equipment supported by the fees and revenues each university receives from its facilities or research activities. The universities are also authorized to lease facilities for research purposes, and to lease out research facilities to non-university persons provided that rental income is received by the university or that opportunities for public-private research are provided.

EHB 2748

The regents must consider the maintenance and operating costs of the research facility and related equipment. State-appropriated funds cannot be used for maintenance and operating expenses or to support grant or contract-supported research in these facilities. The universities must report annually to the Legislature on the financing of research facilities under the authority provided by this act.

Votes on Final Passage:

House	98	0	
Senate	45	1	(Senate amended)
House	94	0	(House concurred)

Effective: June 13, 2002

EHB 2748

C 234 L 02

Requiring monitoring of programs for the education of highly capable students.

By Representatives Schual-Berke and Anderson.

House Committee on Education
Senate Committee on Education

Background: School districts, individually or jointly, have the option of providing programs for highly capable students. The Office of the Superintendent of Public Instruction (OSPI) is required to administer a program for and allocate state funds to school districts that choose to provide programs for highly capable students. The funds are provided to supplement basic education funding for these students. For the 2001-03 biennium, the budget limits the percentage of highly capable students eligible for funding in each school district to 2 percent of a district's full-time equivalent enrollment.

The 2001-03 biennial budget includes \$12,840,000 for these programs. This amounts to \$328.10 per student in the first year of the biennium and \$328.05 per student in the second biennial year, excluding salary and benefit adjustments included in the budget.

Summary: Beginning with the 2002-03 school year, the OSPI will monitor programs for highly capable students at least once every five years. The OSPI may adopt rules for the program review and monitoring and may conduct them concurrently with other program reviews. In the monitoring and review process, the OSPI will review district outreach efforts, expenditure patterns, and data on support performance. Beginning on June 30, 2003, and every five years after that date, OSPI will report to the legislative education committees with a brief description of the different instructional programs offered to highly capable students.

Votes on Final Passage:

House	97	1	
Senate	48	1	(Senate amended)
House	94	0	(House concurred)

Effective: June 13, 2002

SHB 2754

C 338 L 02

Modifying mandatory arbitration provisions.

By House Committee on Judiciary (originally sponsored by Representatives Lantz, Esser, Dickerson, Jarrett, Lysen and Kagi).

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

Background: Arbitration is a nonjudicial method for resolving disputes in which a neutral party is given authority to decide the case. Arbitration is intended to be a less expensive and time-consuming way of settling problems than taking a dispute to court. Parties are generally free to agree between themselves to submit an issue to arbitration. In some cases, however, arbitration is mandatory.

A statute allows any superior court, by a majority vote of its judges, to adopt mandatory arbitration in prescribed cases. In counties of 70,000 or more population, the county legislative authority may also impose this mandatory arbitration. This mandatory arbitration applies to cases in which the sole relief sought is a money judgment of \$15,000 or less. By a two-thirds vote, the judges of the superior court may raise this limit to \$35,000. These limits were set at their current levels in 1988, when they were raised from \$10,000 and \$25,000, respectively. Superior court judges may also vote to use mandatory arbitration in child support cases, without limit as to the dollar amount of the support payments.

Anyone agreed to by the parties may be an arbitrator. If agreement is not reached, the court will appoint an arbitrator, who must be a retired judge or a lawyer with at least five years membership in the bar. Arbitrators are paid at the same rate as judges pro tem of the superior court.

An award by an arbitrator may be appealed to the superior court. The superior court will hear the appeal "de novo." That is, the court on appeal will conduct a trial on all issues of fact and law essentially as though the arbitration had not occurred. Amounts awarded on appeal are not subject to any dollar limits. The mandatory arbitration statute provides that Washington Supreme Court rules will establish the procedures to be used in mandatory arbitration and that such rules may provide for the recovery of costs and "reasonable" attor-

ney fees from a party who appeals and fails to improve his or her position. The rules make the award of costs and fees mandatory when an appealing party fails to improve his or her position, and make such awards discretionary when an appealing party withdraws the appeal. The determination of whether or not the appealing party's position has been improved is based on the amount awarded in arbitration compared to the amount awarded at the trial de novo.

In 2000 the Legislature authorized counties to assess a fee of up to \$120 for requesting mandatory arbitration. Revenue from such a fee is to be used solely for a county's mandatory arbitration program. A county's imposition of a fee was made subject to the possibility that voter approval of the fee would be required under Initiative 695. The initiative was subsequently declared unconstitutional by the Washington State Supreme court.

Summary: Counties with a population of more than 150,000 are required to adopt mandatory arbitration. In counties with a population of less than 150,000, either the superior court judges or the county legislative authority may adopt mandatory arbitration.

The maximum fee that a county may assess for mandatory arbitration requests is increased to \$220. The reference to possible voter approval under Initiative 695 is removed.

The fee for requesting mandatory arbitration may be waived in the case of an indigent filer.

Votes on Final Passage:

House	88	9
Senate	44	3

Effective: June 13, 2002

SHB 2758

C 280 L 02

Establishing the agricultural conservation easements program.

By House Committee on Agriculture & Ecology (originally sponsored by Representatives Quall, Linville and Hunt).

House Committee on Agriculture & Ecology

House Committee on Appropriations

Senate Committee on Agriculture & International Trade

Background: The Washington State Conservation Commission is a state agency that supports 48 locally governed conservation districts to promote cooperation of landowners and resource users in developing, adopting, and implementing conservation practices. The commission manages technical and financial assistance programs relating to issues such as salmon recovery, streamside buffers, and water quality.

Local governments and certain public and private entities are authorized to acquire the title to or other

interests in land for the purposes of protecting, improving, restoring, maintaining or conserving certain open space, farm or agricultural, and timber land for public use or enjoyment. These entities are specifically authorized to acquire development rights in certain open space, farm or agricultural, and timber land (conservation futures) for conservation purposes. The statutes authorizing these acquisitions include some general provisions on future uses of property acquired for these purposes.

Summary: The agricultural conservation easements program (program) is established, to be managed by the Washington State Conservation Commission. The commission must report to the Legislature on the potential funding sources for purchase of agricultural conservation easements and recommend changes to existing funding authorized by the Legislature.

All program funding must be deposited into the agricultural conservation easements account, which is created in the state treasury. Account deposits include legislative appropriations, other sources directed by the Legislature, and gifts, grants, or endowments from public or private sources. Expenditures from the account may be used only for the purchase of easements under the program. Local governments and private nonprofits may be funded from the account on a "match" or "no match" basis. Any easements purchased with account funds run with the land.

The commission is required to adopt rules as needed to implement legislative intent. Legislative findings cite concerns regarding land costs and conversion of agricultural lands. Legislative intent is specified for creation of a program facilitating the use of federal funds, easing local governments' establishment of similar programs, and assisting local governments to fight conversion of agricultural lands.

Votes on Final Passage:

House	98	0
Senate	47	0

Effective: June 13, 2002

SHB 2765

C 315 L 02

Concerning timber management plans.

By House Committee on Natural Resources (originally sponsored by Representatives Orcutt, Fromhold, Morell and McDermott).

House Committee on Natural Resources

Senate Committee on Natural Resources, Parks & Shorelines

Background: All property in this state is subject to a property tax each year based on the property's value unless a specific exemption is provided by law. The state

constitution authorizes agricultural, timber, and open space lands to be valued on the basis of their current use rather than fair market value. Standing timber is generally exempt from property taxes and is instead subject to a yield tax on harvest.

Two programs currently implement this constitutional exception to fair market value: the "open space" program and the "forest land" program. Both of these programs allow for a tax to be assessed on the current use. Qualifying agricultural, timber, and open space lands must meet certain acreage and/or gross income requirements. Timbered land may qualify for the open space assessment if it is at least five acres in size and used primarily for the commercial growth and harvest of commercial crops. Forested stands over 20 acres in size are qualified to be assessed in the forest lands program.

When a property being taxed at current use is sold or transferred, the new owner has the option of maintaining the current use designation for the land. When lands under the forest lands program are transferred, the county assessor for those lands has the option of requiring the owner to file a timber management plan. Timbered property eligible for current use under the open space program must have a timber management plan submitted to the county assessor whenever an initial application is made or the property is sold or transferred.

Summary: The elements of a timber management plan under the forest lands tax assessment program are defined to include a legal description of the property, a brief description of the standing timber, the existence and nature of a forest management plan for the parcel, information on use, and information on existing forest practices. The timber management plan must be filed with a county either when an application for current use classification is submitted, when a sale of timber land occurs, or within 60 days of applying for a reclassification of current use designation. An applicant that is required to submit a timber management plan may have an extension of the timelines granted in writing by the county. If the timelines are extended, the county may delay processing the application until the timber management plan is submitted.

Votes on Final Passage:

House	98	0	
Senate	44	0	(Senate amended)
House	94	0	(House concurred)

Effective: June 13, 2002

SHB 2767

C 252 L 02

Prohibiting use of public assistance electronic benefit cards for specific purposes.

By House Committee on Children & Family Services (originally sponsored by Representatives Orcutt, Tokuda, Darneille, Chase, Mielke and Boldt).

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

Background: Public assistance recipients receive and use their cash benefits and food stamp benefits through an EBT card. The card resembles a debit or credit card and is used to purchase goods and services and to obtain cash at ATMs.

By law and administrative rule, public assistance recipients may be assigned a protective payee if the person receiving public assistance has demonstrated an inability to care for money. The state is required to pay all costs and fees associated with the services of the protective payee. Protective payees such as social service agencies and guardians receive \$40 per month per client to perform these functions.

The Washington State Gambling Commission was created by the 1973 Legislature as a law enforcement agency with the responsibility of regulating social gambling activities authorized by the Legislature and controlling unauthorized gambling activities. In 1992 the Legislature added the responsibility to negotiate tribal/state compacts for casino gambling activities and to implement the terms of such agreements reached with tribes.

The Washington Horse Racing Commission was created by the Legislature in 1933 and is required to license, regulate, and supervise all race meets held in the state.

The Lottery Commission was created by the Legislature in 1982 and is required to license, regulate, and supervise all lottery games and the sales of tickets or shares.

Summary: Public assistance recipients are prohibited from using EBT cards or cash obtained from EBT cards, to participate in activities at gambling premises, for parimutuel wagering, or to purchase lottery tickets or shares. The gambling licensee is required to notify the Department of Social and Health Services (DSHS) of violations, and the department must assign a protective payee to the recipient who committed the violation.

Gambling premises, parimutuel wagering, or lottery licensees are prohibited from allowing EBT cards to be used to participate in activities at gambling premises, for parimutuel wagering, or to purchase lottery tickets or shares. Licensees are required to report violations to the DSHS.

The Gambling Commission is instructed to consider these provisions as elements to be negotiated with feder-

ally recognized Indian tribes during compact negotiations.

The DSHS is required to notify EBT cardholders of the prohibition on using the card for the various gambling activities identified in the act and the possible penalties for violations.

Votes on Final Passage:

House 98 0
 Senate 48 0 (Senate amended)
 House 94 0 (House concurred)

Effective: June 13, 2002

HB 2768
FULL VETO

Requiring review of reports to the legislature by DSHS.

By Representatives Orcutt, Kagi, Tokuda, Boldt, Jarrett, Benson, Nixon, Lisk, Darneille, Mulliken, Chase, Mielke, Morell, Edwards and Woods.

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

Background: The Legislature has required in statute a variety of reports from the DSHS. Among the types of reports are: program status, status of implementation of legislation, workload information, contracting information, and information on particular areas of concern. These report requirements may be satisfied by a one-time submission, but often are ongoing.

Summary: The DSHS is required to review all legislative requirements on the department to submit reports to the Legislature and recommend the continuance or elimination of the required reports.

The DSHS is required to develop criteria to assess the required reports, including but not limited to, the cost of preparation and the relevance to departmental needs for management information.

The DSHS is required to submit a report to the appropriate committees of the Legislature on the criteria, the review process, and the recommendations by December 1, 2002. These requirements expire on December 31, 2002.

Votes on Final Passage:

House 95 0
 Senate 44 3 (Senate amended)
 House 94 0 (House concurred)

VETO MESSAGE ON HB 2768

April 3, 2002

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. 2768 entitled:

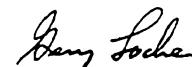
“AN ACT Relating to reports to the legislature by the department of social and health services;”

House Bill No. 2768 would have required the Department of Social and Health Services to review all of the reports currently required of DSHS by the legislature and to prepare another report by December 1, 2002 to recommend which of the currently required reports might be eliminated. The goal of this bill is to reduce unnecessary paperwork so that during this time of scarce resources, DSHS may focus on higher priority activities. I support that goal.

However, this bill would have had the opposite effect, and instead contributed to the paperwork it aims to eliminate. My administration is already in the practice of preparing and submitting to the legislature an annual listing of reports and obsolete statutory references we believe are appropriate candidates for elimination. These are legislatively required reports; it is incumbent on the legislature to review them and determine if they are still desired or necessary.

For these reasons, I have vetoed House Bill No. 2768 in its entirety.

Respectfully submitted,



Gary Locke
 Governor

EHB 2773
 C 235 L 02

Revising standards for apple grades and packs and modifying provisions concerning consignment sale information.

By Representatives Clements, Linville, Chandler and Grant.

House Committee on Agriculture & Ecology
 Senate Committee on Agriculture & International Trade

Background: State laws require the director of the Department of Agriculture 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.

With certain exceptions, no person may act as a commission merchant, dealer, broker, or cash buyer for agricultural commodities, or as the agent of any of them, without being licensed under the state's commission merchant laws. 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 such a sale. It is also a person who accepts a farm product in trust from a consignor for the purpose of resale, who sells on commission an agricultural product, or who in any way handles an agricultural product for a consignor.

Summary: Studies. The director of the Department of Agriculture must convene an existing industry committee on apple grades and packs to recommend, by consensus, revisions to the standards for grades and packs of

apples. The objective is to identify a desired level of uniformity that will ensure that the apples of a particular variety, grade, and pack sold from one warehouse will be equivalent to the apples of the same variety, grade, and pack sold from other warehouses. If the industry committee recommends the revision by consensus by December 15, 2003, the director must give great weight to the recommendations in proposing the adoption of rules that reflect the consensus recommendations. If it does not make recommendations by consensus, the committee must report its findings and conclusions to the Department of Agriculture and the Legislature.

The Legislature invites various industry associations to conduct a thorough analysis of the marketing information needs of the industry and report to the department and the Legislature. On issues for which consensus has not been reached, each industry organization is requested to provide a brief statement containing the perspective of that industry segment. The reports are requested to be submitted by December 15, 2003.

Imported Apples. Each commission merchant who received apples imported into the

U. S. between January 1, 2002, and November 30, 2002, must report to the department of Agriculture on the volume of each variety of imported apples that was received by and packed and sold by the commission merchant. The information must be reported by December 15, 2002. The department must compile the information and report it, in the aggregate, to the Legislature by December 31, 2002. Such information that can be attributed to a particular business is not subject to disclosure under the state's public disclosure laws.

Votes on Final Passage:

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

Effective: June 13, 2002

HB 2782

C 7 L 02

Implementing the results of the 1995-2000 actuarial experience study.

By Representatives Doumit and Sommers.

House Committee on Appropriations
Senate Committee on Ways & Means

Background: The Office of the State Actuary calculates required contribution rates for the state-run pension systems. As part of the monitoring process, the state actuary publishes an annual actuarial valuation, producing an assessment of current assets and future liabilities of the respective retirement systems. The actuarial valuation results drive recommended changes in pension contribution rates.

The actuarial valuation is based on assumptions produced by the experience study performed by the state actuary every five years. The experience study analyzes rates of retirement, termination, and disability for retirement system members, as well as employee longevity and salary increases. Based on the findings of the experience study, the actuary may revise the assumptions used to perform the annual valuations of the pension funds.

Pension contribution rates have been revised in statute for a variety of reasons. In 1989 the Legislature established new processes to provide for the systematic funding of the various state-administered retirement plans, including Public Employees' Retirement System (PERS), Teachers' Retirement System (TRS), School Employees' Retirement System (SERS), Law Enforcement Officers' and Fire Fighters' (LEOFF), and the Washington State Patrol Retirement System (WSPRS). The 1989 pension funding bill established new employer contribution rates in statute, required the Economic and Revenue Forecast Council (ERFC) to adopt the economic assumptions to be used by the state actuary in conducting valuation studies of the state retirement systems, and required the ERFC to recommend changes in employer contribution rates every six years.

In 1992 the Legislature amended the funding statutes to lower the employer contribution rates based on the most recent actuarial studies. In 1993 the Legislature amended the funding statutes to lower the employer contribution rates in light of updated actuarial valuation studies.

The Legislature amended the pension funding statutes in the 2000 supplemental budget to provide that the rates set by the Pension Funding Council, the authority responsible for adopting contribution rates and economic assumptions for the valuation process, would be used through April 2000, and new rates reflecting the most recent actuarial valuation studies would be implemented on May 1, 2000. In 2001 the Legislature passed legislation allowing the Legislature to revise contribution rates.

The most recent actuarial experience study, covering the period from 1995 to 2000, showed changes in rates of retirement, termination, and disability for retirement system members, as well as employee longevity and salary increases. The valuation published in 2001, which was based on 2000 pension fund data, in conjunction with the application of assumptions produced by the 1995-2000 experience study, shows that the contribution rates set in statute in 2001 for PERS, SERS, TRS and LEOFF were higher than necessary to fully fund the systems, given current benefits and funding requirements.

Summary: Beginning April 1, 2002, the basic state contribution rate for LEOFF and the basic employer contribution rate for PERS, TRS, and WSPRS are established by law based on the results of the most recent valuation using assumptions prescribed by the 1995-2000 experience study. These new rates must be utilized in the 2002

Supplemental Operating Budget. New state contribution rates (expressed as a percentage of the total salary of the system's membership) will be 1.75 percent for LEOFF 2, 1.10 percent for PERS, 1.05 percent for TRS, and 0.96 percent for SERS. New non-state employer rates for LEOFF 2 are set at 2.64 percent, and new employee rates will be 4.39 percent for LEOFF 2, 0.65 percent for PERS 2, 0.15 percent for TRS 2, and 0.35 percent for SERS 2.

Votes on Final Passage:

House	50	47
Senate	37	10

Effective: April 1, 2002

SHB 2800

C 162 L 02

Removing the capital projects surcharge on certain department of services for the blind vendors.

By House Committee on Capital Budget (originally sponsored by Representatives Hunt, Alexander, Romero, Hankins, Murray, Skinner, Woods, Reardon and Casada).

House Committee on Capital Budget
Senate Committee on Ways & Means

Background: The Department of General Administration (GA) owns and manages a number of buildings in Thurston County including the Department of Transportation building, the General Administration building, the Highway-Licenses building, the Legislative building, the Natural Resources building, Office Building 2 (OB-2) and other buildings. The GA rents these buildings to state agencies for the delivery of programs and to conduct the state's business.

The GA's rental charge to building tenants in Thurston County includes two components: a facilities and services charge for maintenance and operations, and a capital projects surcharge or debt service charge for buildings substantially renovated since October 1994. The GA-owned buildings subject to debt service may be exempt from the capital projects surcharge. The GA assesses these charges to building tenants based on square feet of the GA-owned space. The common areas, such as general lobby space, corridors, and restrooms, are prorated based on each agency's prorated fair share of the building.

The capital projects surcharge was created by the Legislature in 1994 to provide a mechanism for distributing capital costs among agencies and programs occupying facilities owned and managed by the GA in Thurston County, primarily to improve facility decisions and to more efficiently use facilities.

The initial payment structure for this surcharge was \$1 per square foot per year beginning July 1, 1995. State law requires that the surcharge increase over time to an amount that, when combined with a facilities and ser-

vices charge, equals the market rate for similar types of lease space in the area or equals \$5 per square foot per year, whichever is less. The GA building tenants are currently paying \$4 per square foot per year for the capital projects surcharge.

Proceeds from the capital projects surcharge are deposited into the Thurston County Facilities Account. These funds are subject to capital budget appropriation and may be expended for capital improvements in state facilities owned and managed by the GA in Thurston County.

The GA contracts with the Department of Services for the Blind for cafeteria services in the GA-owned buildings in Thurston County. Cafeteria space fees include rent based upon rentable square feet, which includes maintenance and operations and also includes the capital projects surcharge or debt service charge. All cafeteria locations in the GA-owned facilities are charged for the maintenance and operations portion of the rent at a rate of \$6.72 per rentable square foot per year. Cafeteria vendors located in the GA, the Legislative, the OB-2, and the Department of Transportation buildings pay the capital projects surcharge at a rate of \$4.00 per rentable square foot per year, while cafeteria vendors at the Highway-Licences and the Natural Resources buildings do not pay the capital projects surcharge. The anchor tenants of these buildings have elected to pay the other charge.

Summary: Beginning July 1, 2002, the Department of Services for the Blind vendors who operate cafeteria services in a building owned and managed by the Department of General Administration (GA) are exempt from paying the capital projects surcharge. The GA must consider cafeteria space as a common area for purposes of allocating the capital projects surcharge to other building tenants beginning July 1, 2003.

Votes on Final Passage:

House	94	0
Senate	49	0

Effective: June 13, 2002

SHB 2807

C 204 L 02

Creating the Washington promise scholarship.

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

House Committee on Higher Education
House Committee on Appropriations
Senate Committee on Higher Education
Senate Committee on Ways & Means

Background: The Washington Promise Scholarship was established in the 1997 budget. The Washington

Promise Scholarship program provides college scholarships to the state's top high school seniors. Students must come from low- and middle-income families and either rank in the top 15 percent of their graduating classes or score 1200 or better on the Scholastic Aptitude Test. The Washington State Higher Education Coordinating Board (HECB) administers the program, with the assistance for the Office of the Superintendent of Public Instruction (OSPI). The award consists of two years tuition at the community college full-time tuition rate. The promise scholarship is not established in statute. However, the Legislature appropriated \$11.4 million during the 1999-2001 biennium as a provision in the state operating budget. The program is funded until June 2003.

Of this year's recipients:

- almost two-thirds are women;
- more than one-third also qualify for the State Need Grant, a financial aid program for students from low-income families; and
- a little more than half will attend a public four-year university.

Summary: The Washington Promise Scholarship Program is created in statute. The Promise Scholarship Program is administered by the HECB. The scholarships are not intended to supplant any grant, scholarship, or tax program related to postsecondary education. Each qualifying student will receive two consecutive annual awards, the value of each not to exceed the full-time annual resident tuition rates charged by Washington's community colleges.

The scholarships may only be used for undergraduate course work at accredited institutions of higher education in Washington, or for undergraduate course work at Oregon institutions that are part of the border county opportunity program when the Oregon institutions offer programs no available at an accredited Washington institution. The scholarship may not be awarded to any student pursuing a degree in theology. The scholarships may be used for college-related expenses, including tuition, room and board, books, and materials.

Eligibility for a Promise Scholarship is based on: 1) academic merit, and 2) student family income.

Academic eligibility. To be eligible, a student must graduate in the top 15 percent of his or her graduating class, must equal or exceed a cumulative Scholastic Aptitude Test score of 1200 on the first attempt, or must equal or exceed a composite American College Test score of 27 on the first attempt.

Financial eligibility. To be eligible, a student's family income must not exceed 135 percent of the state median family income adjusted for family size, as determined by the HECB for each graduating class. Students not meeting the financial eligibility requirements for the first year of scholarship benefits may reapply for the second year of benefits, but must still meet the income standard set by the board for the student's graduating class.

Implementation. The HECB will administer the scholarship, with the assistance of the OSPI. First scholarships are to be awarded in 2002-03. Public and approved private high schools will provide requested information for academic eligibility to OSPI, and OSPI, in turn, will provide this information to the HECB.

All money for the scholarship is deposited into an account in the custody of the State Treasurer. The HECB must award scholarships to as many students as possible from among those qualifying and will determine the award amount dependent upon availability of funds.

The HECB is directed to change the eligibility for the state need grant from 60 percent of the state median family income to 55 percent when administering it in conjunction with the promise scholarship.

Votes on Final Passage:

House	97	1	
Senate	48	0	(Senate amended)
House			(House refused to concur)
Senate	45	0	(Senate amended)
House	97	1	(House concurred)

Effective: March 27, 2002

HB 2809
C 122 L 02

Concerning the application of pesticides in a forest environment.

By Representatives Doumit, Chandler, Linville, Schoesler, Eickmeyer and Pearson.

House Committee on Agriculture & Ecology
Senate Committee on Agriculture & International Trade

Background: The registration and use of pesticides is regulated at the national level by the Federal Insecticide, Fungicide, and Rodenticide Act. In general, a pesticide cannot be sold or distributed within the United States unless it has been registered with the U.S. Environmental Protection Agency. The "pesticides" regulated in this manner encompass herbicides, insecticides, and similar chemicals that control pests. At the state level, pesticides sold or distributed within the state must be registered under the Washington Pesticide Control Act. The use or application of pesticides in the state is regulated under the Washington Pesticide Application Act. These state laws are administered by the Washington State Department of Agriculture (WSDA).

Among the persons who must be licensed by the WSDA to apply pesticides are persons who are in the business of applying pesticides to the lands of others and the applicator's employees, government employees who apply restricted use pesticides, persons who use restricted use pesticides on their own agricultural lands, persons who use restricted use pesticides on their own

lands for non-agricultural purposes, and demonstration and research applicators.

A licensed commercial pesticide applicator may allow another person, known as an operator, to apply pesticides under the authority of his or her license if the WSDA has been notified. Most pesticides require that direct on-the-job supervision by the certified applicator be given to the operator conducting the application. This supervision requires that the person applying the pesticide be in visual and voice contact with the certified applicator at all times.

Summary: Forest applications of pesticides do not require constant voice and visual contact when general use pesticides are applied using non-apparatus type equipment. This exemption from the direct supervision requirements of the Washington Pesticide Application Act only applies if the certified applicator is physically present, readily available in the immediate application area, and directly observes the pesticide mixing and batching.

"Forest application" of pesticides is defined to mean the application of pesticides to agricultural land used to grow trees for specific commercial production purposes.

Votes on Final Passage:

House	98	0
Senate	41	1

Effective: June 13, 2002
 March 26, 2002 (Section 1)
 July 1, 2002 (Section 2)

ESHB 2819
 C 123 L 02

Addressing the uncertainty surrounding reversionary clauses contained in Bush act and Callow act deeds.

By House Committee on Natural Resources (originally sponsored by Representatives Doumit, Buck, Hatfield and Linville).

House Committee on Natural Resources
 Senate Committee on Natural Resources, Parks & Shorelines

Background: Upon statehood, Washington was conferred all of the aquatic lands within the state's borders. Unlike the upland forested parcels, the aquatic lands transferred were given to the new state in fee and were not subject to trust restrictions for specific beneficiaries. Since that time, the state has sold some of the aquatic lands in the state and entered into leases for other parcels.

In 1895 the Legislature passed the Bush and Callow acts. These acts allowed for the sale of aquatic lands to be used only for oyster planting. The laws specified that if the aquatic lands were used for any other purpose, the ownership would revert back to the state. In 1919 the

Legislature passed what is known as the "Clam Act." This legislation allowed the owners of aquatic lands purchased under the Bush and Callow acts to cultivate clams and other edible shellfish without having the land revert back to the state because it was being used for a purpose other than growing oysters.

The Bush and Callow acts were repealed in 1935. However, the Legislature included a savings clause so that individuals who had purchased aquatic lands under the acts were allowed to maintain full ownership, subject to reversion back to the state for improper uses. In 1949 the Clam Act was repealed during a comprehensive rewrite of the state's Fisheries Code. Because the repeal of the Clam Act did not contain a savings clause, the permission to cultivate shellfish other than oysters on Bush and Callow lands was repealed with the act.

The aquatic lands sold under the Bush and Callow acts are still being actively used for the cultivation of oysters. However, many acres of these aquatic lands are also being used for the cultivation of clams, geoduck, and other shellfish.

In 1991 the attorney general was asked if the state could exercise its reversionary rights granted by the Bush and Callow acts and reclaim ownership of the lands being used for something other than oyster cultivation. The attorney general concluded that operations that were raising shellfish other than oysters prior to the 1949 repeal of the Clam Act had a vested right to continue activities consistent with the Clam Act. However, the attorney general also opined that operations raising clams and other shellfish on Bush and Callow lands that were not doing so prior to the Clam Act's repeal are subject to the state's reversionary rights.

Summary: Any person who is in possession of property that was conveyed under either the Bush or Callow Act is granted the right to use that property for the cultivation of clams or other shellfish. This right does not include the right to use subtidal portions of Bush and Callow Act tidelands for the cultivation and harvest of shellfish not commencing prior to December 31, 2001. Cultivation is not deemed to have commenced unless shellfish planting has begun prior to December 31, 2001. The granting of this right does not impair any currently vested rights.

Aquatic lands that are under deed or contract from the state and being used by a private party to harvest or cultivate geoduck must be surveyed. Property corners and anchor buoys must be placed in sufficient quantities to aid in relocation of the oyster track lines occurring or extending below extreme low tide. The record of the survey must be established on the Washington coordinate system.

Votes on Final Passage:

House	94	0
Senate	48	0

Effective: June 13, 2002

HB 2824
C 100 L 02

Revising conflict of interest provisions for the long-term care ombudsman program.

By Representatives Skinner, Edwards and Chase.

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

Background: Long-term care ombudsmen may not have been employed in a long-term care facility or have had a pecuniary interest in a long-term care facility within the past three years. There is no period of ineligibility for a person who was employed in a governmental position involving licensing, certification, or regulation from becoming a long-term care ombudsman.

Summary: A period of ineligibility of one year is established for individuals interested in becoming a long-term care ombudsman if they (1) were employed by, or involved in the management of, a long-term care facility; (2) were employed in a governmental position involving licensing, certification, or regulation of long-term care facilities; or (3) had a significant ownership or investment interest in a long-term care facility. A long-term care ombudsman is prohibited from being assigned to a long-term care facility if he or she has an immediate family member living there.

Votes on Final Passage:

House 98 0
Senate 48 0

Effective: June 13, 2002

SHB 2834
C 101 L 02

Requiring a medication or treatment order as a condition for children with life-threatening conditions to attend public school.

By House Committee on Health Care (originally sponsored by Representatives Schual-Berke, Campbell, Cody, Darneille, Conway, Edwards, Chase, Hunt and Pflug).

House Committee on Health Care
Senate Committee on Education

Background: Children with life-threatening health conditions may attend school without a physician's medication or treatment order that indicates what medical services they may require at school.

Summary: If a child has a life-threatening health condition, they must present a medication and treatment order to their school prior to attending school. Any child with a life-threatening health condition who does not present a medication or treatment order will be prohibited from attending school until the order has been presented to the

school. The state Board of Education is required to promulgate rules to implement this requirement.

Votes on Final Passage:

House 98 0
Senate 49 0

Effective: June 13, 2002

EHB 2841
C 129 L 02

Requiring a student member on the higher education coordinating board.

By Representatives Chase, Cox, Kenney, Jarrett, Fromhold, Lysen, Edwards, Upthegrove, Rockefeller, Haigh, Esser and McDermott.

House Committee on Higher Education
Senate Committee on Higher Education

Background: The Higher Education Coordinating Board (HECB) was created by the Legislature in 1985 and came into being in January 1986 as the successor agency to the Council for Post Secondary Education.

Composition: The board is made up of nine citizen members, appointed by the Governor and confirmed by the Senate. Board members serve four-year terms and may be reappointed for a total of two terms. The board chair serves at the pleasure of the Governor.

Principal Functions: The purpose of the board is to provide planning, coordination, monitoring, and policy analysis for higher education in the state of Washington in cooperation and consultation with the institutions' autonomous governing boards and with all other segments of post secondary education, including, but not limited to, the State Board for Community and Technical Colleges.

In addition to developing the state's higher education Master Plan, the board has been assigned other significant policy studies by the Legislature. Other HECB responsibilities include branch campus land acquisition, planning and coordination; monitoring/coordination of assessment activities; health professions resource planning; distinguished professorship endowments and graduate fellowship endowments programs; and involvement with the planning and coordination of the K-20 telecommunications network.

State Financial Aid: Chief among the operational programs administered by the board is the state financial aid program for students attending public and independent higher education institutions. The HECB-administered financial aid programs include the following: State Need Grant, State Work Study, Educational Opportunity Grant, Washington Award for Vocational Excellence, Washington Scholars, American Indian Endowed Scholarship, Health Professional Loan Repayment and Scholarship Program, Community Scholarships Matching

Grants, Paul Fowler Scholarship, Christa McAuliffe Award for Excellence, Aid to Blind Students, and Western Interstate Commission for Higher Education Scholarships.

Summary: The membership of the Higher Education Coordinating Board is increased from nine members to 10 members. At least one of the board members must be a student. The Senate is required to approve the student member. The student member has a one year term starting from the first day of July.

Votes on Final Passage:

House	94	4	
Senate	42	5	(Senate amended)
House	94	0	(House concurred)

Effective: June 13, 2002

HB 2846
FULL VETO

Requiring specific funding to implement the buildable lands review and evaluation program.

By Representatives Romero, Dunshee and Mulliken.

House Committee on Local Government & Housing

Background: The Growth Management Act (GMA) requires a county and its cities to plan if the county meets specified population and growth criteria. Counties not meeting these criteria may choose to plan under the GMA. Currently, 29 of 39 Washington counties are required or have chosen to plan under the major GMA requirements (GMA jurisdictions).

The GMA jurisdictions must designate urban growth areas (UGAs), within which urban growth is encouraged and outside of which urban growth is prohibited. "Urban growth" is defined in the GMA to mean growth making intensive use of land to an extent creating incompatibility with natural resource use. The GMA jurisdiction must also adopt a comprehensive plan containing certain required elements and implementing development regulations.

By September 1, 2002, and every five years thereafter, the GMA jurisdictions must review their comprehensive plans and development regulations for consistency with the GMA requirements and must revise their plans and regulations if necessary.

The GMA requires six western Washington counties (Clark, King, Kitsap, Pierce, Snohomish, and Thurston) and their cities to establish a monitoring and evaluation program to determine whether their county-wide planning policies are meeting planned residential densities and uses. If the evaluation shows that the densities are not being met, the county and its cities must take measures to increase consistency between what was envisioned and what has occurred. The first evaluation must

be completed no later than September 1, 2002, and every five years thereafter.

Summary: The Legislature is required to appropriate at least \$2.5 million per biennium to implement the Buildable Lands Program and distribute the money by July 1 of the first year of the biennium, or the requirements of the program do not apply.

Votes on Final Passage:

House	51	44
Senate	27	19

VETO MESSAGE ON HB 2846

April 5, 2002

*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. 2846 entitled:

"AN ACT Relating to requiring specific funding to implement the buildable lands review and evaluation program;"

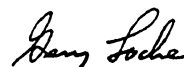
House Bill No. 2846 would have required counties to adopt planning policies to establish a review and evaluation program in accordance with RCW 36.70A.215 only if (1) specific funding were provided in the minimum amount of \$2.5 million, and (2) the funds were distributed by July 31 of the first year of the biennium.

This review and evaluation program is commonly known as the 'buildable lands' program. Under this program, counties and cities are to determine whether they are achieving urban densities within urban growth areas (UGA's), and identify reasonable measures to adjust UGA boundaries. This program is important to ensure that the density goals of the Growth Management Act are being met.

I am sympathetic to the concerns of local government that they need financial assistance to accomplish the many planning requirements placed upon them. However, it is inappropriate to have a specific minimum dollar figure set in statute. Similar statutory provisions call for 'sufficient funding.' Setting a specific dollar figure will unduly bind the state in the future. Determination of the appropriate amount to provide to local governments for this purpose should be dealt with in the same manner as any other appropriations item.

For these reasons, I have vetoed House Bill No. 2846 in its entirety.

Respectfully submitted,



Gary Locke
Governor

ESHB 2866
PARTIAL VETO

C 368 L 02

Limiting overlapping jurisdiction regarding the permitting of storm water projects.

By House Committee on Natural Resources (originally sponsored by Representatives Doumit, Sump, Reardon, Schoesler, Linville, Kessler, Morris, Mulliken, Hatfield, Pearson, Grant, Armstrong and McMorris).

House Committee on Natural Resources
Senate Committee on Natural Resources, Parks & Shorelines

Background: A person must obtain hydraulic project approval for any project or work that will use, divert, obstruct, or change the natural flow or bed of any of the salt or fresh waters of the state before beginning the construction or work. Hydraulic permits are issued to ensure the proper protection of fish life and are issued by the Department of Fish and Wildlife (DFW).

Hydraulic project approvals cannot be unreasonably withheld but the statute does not address the kinds of conditions that may be attached to hydraulic permits. The imposition of impact fees by local governments requires that the fees must reasonably relate to the increased service demands caused by the development activity. The local ordinance imposing the fee must develop a method for calculating the amount of impact fees based upon the proportionate share of the cost of public facility improvements required for each type of development activity. There is no similar guidelines to be used for conditioning hydraulic permits.

Applicants seeking to construct a stormwater management device must receive both a hydraulic permit from the Department of Fish and Wildlife and a National Pollution Discharge Elimination Permit from the Department of Ecology. The two permits may require different requirements to be met before the project is approved.

Marinas that were in existence on June 6, 1996, or that have received a hydraulic project approval for its initial construction, may obtain upon request a renewable five-year hydraulic project approval for regular maintenance activities of the marina. This type of renewable five-year approval for regular maintenance is not available for marine terminals.

The Hydraulics Appeals Board consists of three members. One member is the director of the Department of Ecology or the director's designee, one member is the director of the Department of Agriculture or the director's designee, and the remaining member is the director of the DFW or the director's designee. The board is responsible for hearing those hydraulic appeals related to diversions of water for agricultural irrigation or stock watering, streambank stabilization to protect farm and

agricultural land, and proposals pertaining to off-site mitigation.

Summary: The Department of Fish and Wildlife (DFW) may not unreasonably condition hydraulic projects. Conditions imposed upon obtaining a hydraulic project approval must reasonably relate to the project. The DFW may not impose conditions that attempt to optimize fish life that are out of proportion to the impact of the proposed project.

Hydraulic permits must contain provisions that allow for minor modifications to the plans and specifications without requiring a permit to be reissued.

A process is established to address overlapping jurisdiction between the Department of Ecology (DOE) and the DFW regarding storm water projects. The DOE and local governments operating under the water pollution control laws are recognized as having the primary responsibility for the regulation of storm water projects. Once a storm water project has been granted a National Pollution Discharge Elimination System permit, also known as the NPDES permit, a hydraulic permit is required only for the actual construction of any storm water outfall or associated structures. The DFW may not deny or condition hydraulic permits under these circumstances based upon water quality or quantity impacts arising from storm water discharges for which the structure is being installed.

In other locations, the DFW may issue hydraulic permits pertaining to storm water projects, and the permits may contain provisions that protect fish life from adverse effects resulting from the direct hydraulic impacts of the discharge. Before issuing a hydraulic permit with conditions under these circumstances, the DFW must make a finding that the discharge from the outfall will cause harmful effects to fish, send the findings to the applicant and the city or county in which the project is being proposed, and allow the applicant an opportunity to use local ordinances or other mechanisms to avoid adverse effects resulting from the direct hydraulic discharge. Once this process is followed, the DFW may issue a hydraulic permit that prescribes the discharge rates from an outfall structure that will prevent adverse effects to the bed or flow of the waterway. The DFW may recommend, but not specify, the measures needed to meet these discharge rates. The DFW may not require changes to the project design above the mean higher high water mark of marine waters or the ordinary high water mark of fresh waters of the state. Nothing is intended to alter any authority the DFW may have to regulate other types of projects under the hydraulics code.

Marine terminals in existence on June 6, 1996, or marine terminals that have received a hydraulic project approval for their initial construction, may obtain upon request a renewable five-year hydraulic project approval for regular maintenance activities of the marine terminal.

The membership of the Hydraulics Appeals Board is increased by three members representing local governments. One of these members represents cities, one member represents counties, and one member represents port districts. The local government representatives are appointed by and serve "at the pleasure" of their respective state associations.

Votes on Final Passage:

House	74	24	
Senate	30	18	(Senate amended)
House	61	35	(House concurred)

Effective: June 13, 2002

Partial Veto Summary: The Governor vetoed a section that increased the membership of the Hydraulics Appeals Board by adding three members representing local governments.

VETO MESSAGE ON HB 2866-S

April 5, 2002

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, Engrossed Substitute House Bill No. 2866 entitled:

"AN ACT Relating to hydraulic permits;"

Engrossed Substitute House Bill No. 2866 makes changes to the hydraulic project approval (HPA) statute and adds members to the Hydraulic Appeals Board.

Section 6 of the bill would have added three members to the Hydraulics Appeals Board - one to be appointed by the Association of Washington Cities, one by the Association of Washington Counties, and one by the Washington Public Ports Association - to serve at the pleasure of those associations. These associations should not control half of a quasi-judicial board that hears appeals in which the associations very often have a stake.

In reviewing the bill, I am also concerned about sections 4 and 5. These sections address the relationship between HPA permits and general storm water permits, and how the Department of Fish and Wildlife (WDFW) may condition the issuance of an HPA permit.

Although I have decided not to veto sections 4 and 5, I am concerned that these sections could limit the ability of WDFW to provide protection for fish through the HPA process. There has not been a sufficient examination of whether the storm water manual, local ordinances, or 'other mechanisms' would be adequate substitutes for the conditions that the department would consider. The consequence could be to tie the hands of the department in the implementation of one of its only regulatory programs for fish habitat protection without adequate assurance that the alternative will provide the necessary level of protection.


The supplemental operating budget includes a provision requiring WDFW to establish a hydraulic project approval (HPA) program technical review task force. This task force is to conduct a thorough evaluation of the HPA program and make recommendations to the legislature by November of this year. I am requesting that this task force also address the question of the overlap of state statutory requirements and local programs, to determine whether they adequately address impacts covered by the HPA process.

There is an opportunity to streamline these processes and clarify regulatory authority. However, we must make these improvements in a manner that will protect critical salmon habitat, and maintain the ability of our state agencies to provide such protection. I expect that the HPA task force will make recommendations to accomplish this.

For the reasons indicated above, I have vetoed section 6 of Engrossed Substitute House Bill No. 2866.

With the exception of section 6, Engrossed Substitute House Bill No. 2866 is approved.

Respectfully submitted,



Gary Locke
Governor

2SHB 2867

C 361 L 02

Mitigating the effects of the aquatic pesticide national pollutant discharge elimination system permit required as the result of a recent court decision.

By House Committee on Agriculture & Ecology (originally sponsored by Representatives Fromhold, Ogden, McMorris, Grant, Haigh and Delvin).

House Committee on Agriculture & Ecology
House Committee on Appropriations
Senate Committee on Environment, Energy & Water
Senate Committee on Ways & Means

Background: Federal and State Discharge Permits. The federal Clean Water Act (CWA) establishes the National Pollution Discharge Elimination System (NPDES) permit system to regulate wastewater discharges from point sources to surface waters. The NPDES permits are required for anyone who discharges wastewater to surface waters or who has a significant potential to impact surface waters.

Washington's Department of Ecology (DOE) has been delegated authority by the United States Environmental Protection Agency (EPA) to administer NPDES permits. The DOE also administers state discharge permits. A wastewater discharge permit places limits on the quantity and concentrations of contaminants that may be discharged and may require wastewater treatment or impose operating or other conditions. The DOE issues both individual permits (covering single, specific activities or facilities) and general permits (covering a category of similar dischargers) in the state and NPDES permit programs.

The DOE establishes annual fees to collect expenses for issuing and administering state and NPDES discharge permits. Fees must be based on factors relating to the complexity of permit issuance and compliance and must be established to fully recover but not exceed expenses of the program.

Aquatic Pesticides. The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) regulates pesticide use, sales, and labeling. The FIFRA requires that all pesticides and herbicides sold in the United States be registered with the EPA. The EPA has authority under FIFRA

to approve the label under which the product is marketed. The EPA also has authority for enforcement under FIFRA.

Aquatic pesticides are chemicals that kill, attract, repel, or control the growth of aquatic pests. The DOE has issued administrative orders for short-term water quality standards modifications when pesticides are applied in or near waterways.

Headwaters, Inc. v. Talent Irrigation District. The Ninth Circuit Court of Appeals (Ninth Circuit) is a federal appellate court with jurisdiction over cases filed in federal district courts in Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon, and Washington. In March 2001 the Ninth Circuit determined the registration and labeling requirements of FIFRA did not preclude the need for a NPDES permit under the CWA. *Headwaters, Inc. v. Talent Irrigation District, 243 F.3d 526 (2001)*. In the *Talent* case, an Oregon irrigation district's direct application of an aquatic herbicide to an irrigation canal without a NPDES permit was challenged after dead fish were found in a creek downstream from the canal's leaking waste gate. The Ninth Circuit concluded in *Talent* that the herbicide application met the four-part test for establishing a violation of the CWA's NPDES permit requirement: a showing that a defendant (1) discharged (2) a pollutant (3) to navigable waters (4) from a point source. Further, the Ninth Circuit determined in *Talent* that the EPA-approved label on the herbicide did not eliminate the irrigation district's obligation to obtain a NPDES permit.

Department of Ecology Permit Development. In October 2001 the DOE issued notice of development of NPDES permits for the use of aquatic pesticides in lakes, rivers and estuaries in this state. Permits are being developed for:

- aquatic plant management in irrigation ditches;
- mosquito larva control in still waters;
- aquatic plant management in lakes and streams;
- growing shrimp control on oyster beds;
- noxious emergent plant management in wetlands and shorelines;
- nuisance plant management in ditch banks and mitigated wetlands; and
- fish management in lakes.

Summary: A maximum National Discharge Elimination Permit System (NPDES) permit fee of \$300 is established until June 30, 2003, for any individual or general permits developed solely as a result of the Ninth Circuit's decision in *Talent*. These permits may be required only and as long as the Ninth Circuit's interpretation of *Talent* is not overturned or modified by future court rulings, administrative rule making, clarification of scope by the United States Environmental Protection Agency, or legislative action.

Technical revisions eliminate provisions related to expired requirements.

Votes on Final Passage:

House	94	0	
Senate	47	0	(Senate amended)
House			(House refused to concur)
Senate	47	0	(Senate amended)
House	97	0	(House concurred)

Effective: April 4, 2002

HB 2874

C 330 L 02

Authorizing the department of ecology to enter into agreements to allocate Columbia basin project waters.

By House Committee on Agriculture & Ecology (originally sponsored by Representatives Schoesler and Grant).

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

Background: The Columbia Basin Project of the U.S. Bureau of Reclamation receives its waters from Franklin D. Roosevelt Lake behind Grand Coulee Dam. The project is delivered water by way of Banks Lake and currently includes over 600,000 irrigated acres. The Department of Ecology (DOE) has entered into an agreement with the bureau and has adopted implementing rules for managing certain comingled ground waters associated with the project in the Quincy area. Under these rules, the DOE may issue water use permits, including those for using waters stored artificially by the bureau as part of the project.

Summary: The DOE may enter into agreements with the United States for the allocation of ground waters resulting from the Columbia Basin Project. The agreements must be consistent with authorized purposes of the project, federal and state reclamation laws, and federal rate and repayment contract obligations regarding the project. The agreements must provide that the DOE grant an application to use the water only if it determines that the application will not impair existing water rights or project operations, or harm the public interest. Use of any water allocated under the agreements must be contingent upon the issuance of licenses by the United States to approved applicants.

Before implementing the agreements, the DOE, with the concurrence of the United States, must adopt rules establishing the procedures for implementing the agreements and the priorities for processing applications. The DOE may accept funds to cover any administrative and staff expenses that it incurs in connection with such an agreement. The DOE must report to the Legislature annually until December 1, 2007, on this subject.

Votes on Final Passage:

House 98 0
 Senate 46 2 (Senate amended)
 House 96 0 (House concurred)

Effective: June 13, 2002

HB 2892

C 316 L 02

Selling apples for fresh consumption.

By Representatives Clements, Linville, Grant, Lisk, Armstrong, Mulliken, Chandler, Holmquist, Schoesler, Hatfield and Ogden.

House Committee on Agriculture & Ecology
 Senate Committee on Agriculture & International Trade

Background: State law requires the director of Department of Agriculture to establish standards and grades for apples, apricots, Italian prunes, peaches, sweet cherries, pears, potatoes, and asparagus and allows the director to establish them for other fruits and vegetables. It is unlawful to sell any fruits or vegetables as meeting the standards set by the director unless they do meet the standards. A person violating the laws for standards and grades of fruits and vegetables may be subject to a civil penalty of up to \$1,000 for each violation or the suspension of any compliance agreement entered under those laws by the person, or both the civil penalty and the suspension.

To be classified as having been stored in controlled atmosphere storage, fruits or vegetables must be stored under conditions that satisfy standards set by the director of the Department of Agriculture for the oxygen content of the sealed atmosphere, temperature, and duration of exposure to such atmosphere and temperature. For apples, minimums for these standards are set by statute.

Summary: After October 1 of each calendar year, it is unlawful for a person to sell containers of apples that contain apples harvested in a prior calendar year. This prohibition applies to sales of such containers to a retailer or wholesaler for the purpose of resale to the public for fresh consumption.

Votes on Final Passage:

House 98 0
 Senate 48 0

Effective: June 13, 2002

SHB 2893

C 236 L 02

Regulating the business relationship between suppliers and dealers of certain machinery and equipment.

By House Committee on Commerce & Labor (originally sponsored by Representatives Clements and Conway).

House Committee on Commerce & Labor
 Senate Committee on Labor, Commerce & Financial Institutions

Background: State law governs certain aspects of the relationship between retail sellers and manufacturers, wholesalers, and distributors of agricultural equipment. For example, state law regulates repurchase payments for unsold merchandise, prohibits suppliers from committing certain acts, and establishes processes for termination and nonrenewal of dealer agreements. State law does not regulate warranty claims, safety work, or product improvement work.

Repurchase Payments: When either a retail seller or a manufacturer, wholesaler, or distributor wants to cancel or discontinue a contract, the manufacturer, wholesaler, or distributor must pay the retail seller for unsold merchandise. The manufacturer, wholesaler, or distributor must repurchase equipment from the retail seller at a price equal to 100 percent of the net cost for unused equipment, including transportation costs, and repurchase repair parts at a price equal to 85 percent of net prices for repair parts shown in the current price list or catalog. The manufacturer, wholesaler, or distributor also must pay the retailer a handling fee equal to 5 percent of the current net price of repair parts. Upon payment, the title to the merchandise passes to the manufacturer, wholesaler, or distributor, and the manufacturer, wholesaler, or distributor is entitled to possess the merchandise.

Violations: A dealer may bring an action against a supplier if the supplier commits a specified violation. Among the prohibited acts are several dealing with succession and termination. They include:

- terminating, canceling, or failing to renew a dealer agreement or substantially changing a dealer's competitive circumstances or attempting or threatening these actions without good cause;
- unreasonably withholding consent for a dealership to change its capital structure or means of financing; and
- preventing a dealer from selling or transferring a dealership so long as the dealer has written consent from the supplier and the supplier does not unreasonably withhold consent.

Succession: A supplier must not unreasonably withhold consent to the sale or transfer of a dealership if the buyer meets the supplier's financial, business experience, and character standards.

Termination: In certain circumstances, a supplier may terminate a dealer agreement or substantially change a dealer's competitive circumstances with good cause. In some circumstances, the supplier must give the dealer 90 days' written notice of its intent to terminate the agreement or substantially change the competitive circumstances. The notice must state reasons constituting good cause for termination and must give the dealer 60 days to cure any claimed deficiency. In other circumstances, notice and an opportunity to cure are not required.

Remedies: If a manufacturer, wholesaler, or distributor fails to pay repurchase payments to a dealer, the retailer may bring a civil action against the manufacturer, wholesaler, or distributor for the payments. If a manufacturer, wholesaler, or distributor commits a specified violation, the dealer may bring an action against the supplier for damages sustained as a consequence of the supplier's violation, together with costs and reasonable attorneys' fees, and injunctive relief.

Summary: Modifications are made to existing provisions regulating repurchase payments, prohibiting suppliers from committing certain acts, and establishing processes for termination of dealerships. New provisions are added governing warranty claims, safety work, and product improvement work. Clarifications are made to the definitions regulating certain aspects of the relationship between dealers and suppliers of farm equipment.

Repurchase Payments: As noted above, modifications are made to provisions regulating repurchase payments for equipment, repair parts, and other goods.

Requirements for the repurchase of equipment are modified as follows:

- The supplier must reimburse the dealer for services related to the assembly and pre-delivery inspection of the equipment.
- The repurchase price for equipment is equal to 100 percent of the net cost of the invoiced price, or if the invoiced price is not available, 100 percent of the net cost in a current price book. A weather adjustment is made for equipment purchased more than 24 months prior to cancellation of the dealer agreement.

Requirements for the repurchase of repair parts are modified as follows:

- The repurchase price for repair parts is increased from 85 percent to 95 percent of the net price as shown in the current price list or catalog.
- The handling fee is not required if a supplier inventories, packs, and loads the repair parts.
- A supplier must pay a dealer within 90 days of the return of the repair parts or the transfer of the equipment.
- After 90 days, payments accrue interest at a rate of 18 percent per year.

Requirements for the repurchase of other goods are established as follows:

- A supplier must repurchase required hardware and software at a price equal to the original net cost less 20 percent per year.
- A supplier must repurchase specialized repair tools at a price equal to the original net cost for new tools, and the original net cost less 20 percent per year for used tools.
- A supplier must repurchase current signage at a price equal to the original net cost less 20 percent per year, but not less than 50 percent of the original net cost. The title to the goods is transferred from the dealer to the supplier at the dealer location.

Violations: In addition to acts already prohibited, the following acts are prohibited:

- preventing a dealer from changing management control, capital structure, or financing, unless the change results in control by a person who does not meet the supplier's reasonable written standards regarding character, capital, or business experience;
- withholding consent to a transfer of interest in a dealership unless written proof establishes a supplier's claim that the dealer's area of responsibility does not reasonably support a dealer;
- penalizing a dealer for acting as a dealer for another supplier or for servicing the product of another supplier;
- failing to pay a dealer a reasonable commission on the sale or lease of equipment that the supplier sells or leases for use within the state; or
- failing to compensate a dealer for preparation and delivery of equipment that the supplier sells or leases for use within this state and that the dealer prepares for delivery or services.

Succession: A supplier may withhold its consent to a sale, transfer, or assignment of the dealership only if the buyer does not meet the supplier's reasonable written standards regarding character, capital, or business experience. The supplier must give the dealer written notice of its reasons for rejecting the proposed sale within 60 days of receipt of notice of a proposed sale. The supplier bears the burden of proving that its consent was properly withheld.

New Dealerships: A supplier must give notice of an agreement to establish a new dealer or relocate an existing dealer to existing dealers whose assigned areas of responsibility are contiguous to the proposed location of the new or relocated dealership. If no area of responsibility has been assigned, the supplier must notify all dealers within a 75-mile radius of the proposed new location.

Termination: A supplier may terminate a dealer agreement for good cause if the dealer transfers a controlling ownership interest in the dealership to a person who does not meet the supplier's reasonable written standards regarding character, capital, or business experience.

A supplier also may terminate a dealer agreement for a good cause for failure to meet reasonable marketing criteria or market penetration. Before doing so, however, the supplier must provide one year written notice of its intent. After one year, if the supplier terminates the agreement, the supplier must give written notice specifying the reasons that the dealer failed to meet marketing criteria or market penetration and that the termination is effective 180 days from the date of the notice.

Warranty Claims: Requirements for processing warranty claims are established as follows:

- The supplier must approve or disapprove in writing a claim within 30 days of receipt.
- The supplier must pay the dealer an approved claim within 30 days of approval.
- The supplier must state in writing the specific reasons for disapproving a claim.
- If the supplier disapproves a claim for procedural or technical reasons, the dealer may resubmit the claim within 30 days of receipt of the notice of disapproval.
- If the claim is not specifically disapproved within 30 days of receipt, the claim is deemed to be approved and must be paid within 30 days.

A supplier may audit warranty claims for a period of up to one year following payment of the claim and charge back to the dealer any amount shown by audit to be false or fraudulent. In addition, a supplier may setoff warranty claims against obligations owed by the dealer to the supplier.

Safety Work: If the supplier requires the dealer to work on equipment to enhance its safe operation, the supplier must reimburse the dealer for parts, labor, and transportation of equipment or personnel to perform the work.

Product Improvement Work: If a supplier requires a dealer to perform product improvement work on equipment, the supplier must reimburse the dealer for parts and labor.

Remedies: A dealer may bring an action against a supplier for injunctive relief or for damages sustained as a result of a prohibited act or for payment of a warranty claim. If the dealer prevails, the court must award the dealer costs and reasonable attorneys' fees. In addition, a party to a dealer agreement may demand that the other party enter into binding arbitration as the exclusive remedy to resolve a dispute. The losing party must pay costs and reasonable attorneys' fees.

Definitions: The definitions of dealer and equipment, are clarified to make the statute applicable only to persons engaged primarily in the sale, distribution, and manufacture of farm equipment.

Votes on Final Passage:

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

Effective: June 13, 2002

SHB 2895
C 362 L 02

Allowing port employees to join more than one retirement plan subject to a labor agreement.

By House Committee on Appropriations (originally sponsored by Representatives Kessler, Chase and Ogden).

House Committee on Appropriations
Senate Committee on Ways & Means

Background: Before 1999, Public Employees' Retirement System (PERS) employers were prohibited from providing additional retirement plans (such as employer-sponsored 401K plans) to their employees. This excluded from PERS membership employees who were covered either by another state pension plan or by an independent employer-sponsored defined contribution plan.

Legislation enacted in 1999 authorized PERS employers to offer an employer-sponsored defined contribution plan qualified under Section 401 of the Internal Revenue Code. This legislation failed to amend a section affecting port employees, however, so that the prohibition on participation in employer-sponsored defined contribution plans still applies to port employees.

Summary: A port district may enter into an agreement authorizing specified deductions from employee salaries for the purposes of participation in a private pension plan. No port district funds may be contributed to plans that are subject to the agreement. The prohibition on PERS members who are port employees from participating in a private pension plan is removed. No private pension plan in operation prior to December 31, 2001, will be invalidated as a result of these changes. Participation in such a private pension plan will not exclude members from membership in PERS.

Votes on Final Passage:

House	98	0
Senate	46	0

Effective: June 13, 2002

EHB 2901
PARTIAL VETO
C 149 L 02

Regarding unemployment insurance.

By Representatives Conway, Clements, Reardon, Berkey, Kenney, Santos, Lovick, Chase, Simpson, Wood and Sullivan.

House Committee on Commerce & Labor
Senate Committee on Labor, Commerce & Financial Institutions

Background: Unemployment Insurance Benefits

Regular Benefits. Regular benefits are benefits payable to an eligible unemployed worker.

An individual is eligible to receive regular 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 good cause; and (3) is able to work and is actively searching for work.

Regular benefits are based on the individual's earnings in his or her base year; they are not based on financial need. The maximum weekly benefit amount equals 70% of the average weekly wage. As of July 1, 2001, the maximum amount is \$496. The maximum duration is 30 weeks (excluding weeks of training benefits).

Training Benefits. Training benefits are additional benefits payable to an eligible unemployed dislocated worker while he or she is in training.

An individual is eligible to receive training benefits if he or she: (1) is a dislocated worker; (2) worked in an occupation or with a particular skill set for at least three of the last five years; and (3) needs job-related training to find suitable employment in his or her labor market. Until July 1, 2002, however, aerospace, timber, and finfish workers are exempt from work history requirements. An individual may receive training benefits only once every five years.

The individual also must be enrolled in and making satisfactory progress in training approved by the department. The training must target skills in a high demand occupation and must include vocational training or courses needed as a prerequisite to that training. The training may not include courses primarily intended for completion of a baccalaureate degree.

The maximum weekly benefit amount is the same for regular benefits and training benefits. As of July 1, 2001, the maximum amount is \$496. The maximum duration is 52 weeks (including weeks of regular benefits). However, aerospace, timber, and finfish workers who file claims on or before June 30, 2002, may receive up to 74 weeks of benefits (including weeks of regular benefits).

Training benefits are subject to available funding. Funding is limited to: (1) \$20 million for the fiscal year ending June 30, 2000; (2) \$60 million for the two fiscal

years ending June 30, 2002; and (3) \$20 million for each fiscal year thereafter.

Administrative Costs of the Training Benefit Program. The costs of administering training benefits are covered by employer contributions to a special account in the administrative contingency fund. This contribution rate is 0.01 percent (the lowest contribution rate possible in the unemployment insurance system). However, because the percentage rates in the tax array are reduced by 0.01, there is no effect on employer rates. Contributions collected under this provision that exceed the amount that would have been collected if the rate had been set at 0.004 are deposited in the unemployment trust fund.

Unemployment Insurance Taxes

Washington's unemployment insurance system requires each covered employer to pay contributions on a percentage of his or her taxable payroll, except for certain employers that reimburse the Employment Security Department for benefits the agency pays to these employers' former workers. 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 that calendar year. The employer's position in the tax array depends on the employer's layoff experience relative to other employers' experience. 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 employers' benefit ratios, employers may be placed in any one of 20 tax 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 in covered employment in the state for the completed calendar year prior to that June 30. Under this statute, the tax schedule in effect for 2002 is schedule A.

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 or 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 from the previous year's taxable wage base, with a cap of 80 percent of the state "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 unemployment insurance's 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 includes benefits paid as training benefits. Other socialized costs include "ineffective charges" that occur when the benefits charged to an employer's account exceed the contributions that the employer pays.

Reed Act Distributions

The federal Reed Act provides a mechanism for the return of excess federal unemployment insurance taxes to state employment security agencies. The federal Temporary Extended Unemployment Compensation Act of 2002 provides for a special Reed Act distribution of \$8 billion in federal FY 2002. Washington's share of this distribution is about \$167 million.

Summary: Unemployment Insurance Benefits

Regular Benefits. Provisions governing regular benefits are modified as follows:

From July 1, 2002, to June 30, 2004, the maximum weekly benefit amount is \$496.

From July 1, 2004, to June 30, 2010, the growth rate in the maximum weekly benefit amount is capped at 4 percent. When the growth rate is less than 4 percent, increases in the maximum weekly benefit amount that would have occurred but for the cap may be partly recaptured.

After June 30, 2010, if the maximum weekly benefit amount is less than 70 percent of the average weekly wage, the maximum weekly benefit amount is restored to 70 percent of the average weekly wage as follows: The maximum weekly benefit amount is increased either in

equal increments over four fiscal years, or in increments which, together with the growth rate in the maximum amount, do not exceed 9 percent in each fiscal year, whichever restores the maximum amount to 70 percent of the average weekly wage first.

Training Benefits. Provisions governing training benefits are modified as follows:

Certain dislocated aerospace workers who previously received training benefits are eligible to receive limited training benefits. The dislocated aerospace worker must have been making satisfactory progress in, but not completed, his or her training program. The dislocated aerospace worker is eligible to receive training benefits to complete only that training program. This provision applies only to dislocated aerospace workers who file claims for benefits before January 5, 2003.

Individuals who are eligible to receive trade readjustment allowances under the federal Trade Act are not eligible to receive training benefits in each week that they receive such allowances.

The expiration date for the 74-week maximum duration for aerospace workers is changed. Aerospace workers who file claims for benefits on or before January 5, 2003, may receive up to 74 weeks of benefits (including weeks of regular benefits).

An additional \$34 million is available to be obligated for training benefits for aerospace workers who file claims for benefits before January 5, 2003.

Unemployment Insurance Taxes

Qualified Employers. New employers may qualify for the tax array after two years of employment experience instead of three years.

Tax Schedule and Rates. The schedule in effect in 2004 may not be a higher schedule than Schedule C.

Beginning with rate year 2003, rates in the tax array are modified as follows:

- The percentage rates are increased in classes 1 through 4 by 0.05 (in Schedules B and C only) and in class 19 by 0.03 (in all schedules).
- Rate class 20 is divided into 5 subclasses, 20A through 20E, with rates increased to result in a range of rates from 5.4 to 6.0 percent. Assignment to subclasses is based on an employer's benefit ratio.
- The maximum rate is increased from 5.4 percent to a rate that ranges from 5.7 to 6.0 depending on the schedule in effect. However, in the agriculture industry, the maximum rate is the rate in effect in class 20A (5.4 to 5.6 percent depending on the schedule in effect).

Beginning with rate year 2005, rates in the tax array are reduced as follows:

- Rates are reduced in class 4 in Schedules B and C (but remain above current levels).
- Rates are reduced in classes 6 through 17 in Schedule A (by 9 percent) and in Schedule B (by 5 percent).

- Rates are reduced in classes 15 and 16 in Schedule AA.

An insolvency surcharge of 0.15 percent is added to all contribution-paying employer rates for rate year 2003 (unless specified federal Reed Act funds are received by the state) and for rate year 2004 (unless the fund balance ratio is above a specified level).

An equity surcharge, beginning with rate year 2005, is added to all contribution-paying employer rates (except employers in fishing and food processing in rate classes 20A through 20E) as follows:

- To be subject to the equity surcharge, the employer must have had ineffective charges in at least three of the last four years.
- The equity surcharge is calculated by dividing the employer's net ineffective charges (the amount of ineffective charges in the last four years reduced by the employer's estimated contributions over those four years) by the employer's taxable payroll in the last fiscal year.
- The maximum equity surcharge is 0.4 percent, except that the maximum surcharge is 0.6 percent if the total ineffective charges in the previous fiscal year are more than 15 percent of the total benefits paid in that year.

Taxable Wage Base. The maximum taxable wage base is increased for employers in rate classes 19 and 20A through 20E, and for contribution-paying employers not qualified to be in the array, as follows:

- For rate year 2003, the maximum taxable wage base is 85 percent of the average annual wage for contribution purposes.
- For rate year 2004 and thereafter, the maximum taxable wage base is 90 percent of the average annual wage for contribution purposes.

If a business is transferred to a successor employer who was not an employer at the time of transfer, the taxable wage base that applied to the predecessor employer at the time of the transfer applies to the successor employer for the remainder of the year.

Experience Rating for Training Benefits. Training benefits must be charged to employers' experience rating accounts beginning with claims that are effective on or after July 7, 2002.

Administrative Costs. The costs of administering the act's provisions are covered by the employer contributions to the special account in the administrative contingency fund. The provision is deleted that requires contributions collected for this account to be deposited in the unemployment trust fund if the contributions exceed the amount that would have been collected if the rate had been set at 0.004.

Joint Task Force on Unemployment Insurance

A joint task force is created to study unemployment insurance issues. These issues include: benefits; tax equity proposals; social costs, including noncharged

benefits and inactive accounts; experience rating; administrative costs; and trust fund adequacy. The task force must report its findings and recommendations to the Legislature by December 31, 2003.

The task force members include four senators, four representatives, four business representatives, and four labor representatives. Legislators serving on the task force may be reimbursed for travel expenses, but task force members are not otherwise compensated.

A technical advisory committee is appointed to assist the task force. The advisory committee members include representatives of the small business, construction, aerospace, information technology, agriculture, and retail sectors. The members must also include representatives of business and labor, and rural and urban interests.

Administrative, technical, and clerical assistance is provided by the Employment Security Department. Staff support is provided by Senate and House committee staff.

Votes on Final Passage:

House	65	31	
Senate	35	14	(Senate amended)
House	64	33	(House concurred)

Effective: March 26, 2002 (Section 2)

June 13, 2002

January 1, 2005 (Section 8)

Partial Veto Summary: The veto removes the section that creates a joint task force to study unemployment insurance issues.

VETO MESSAGE ON HB 2901

March 26, 2002

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 14, Engrossed House Bill No. 2901 entitled:

“AN ACT Relating to unemployment insurance;”

Engrossed House Bill No. 2901 makes substantive changes to the unemployment insurance (UI) tax system that will be phased in over the next several years. Many of the reforms are based on a 1998 study conducted by the Employment Security Department.

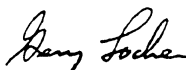
Section 14 of the bill would have created a 16-member task force comprised of legislators, business and labor representatives to further study the UI system, and issue a report by December 31, 2003. Topics for the study included tax equity proposals, benefit structure and costs, experience rating, and any other issues deemed appropriate by the task force.

The task force would have been asked to report on issues covered by EHB 2901, prior to the full implementation of the bill, and before the full effectiveness of the act could be properly measured.

For these reasons, I have vetoed section 14 of Engrossed House Bill No. 2901.

With the exception of section 14, Engrossed House Bill No. 2901 is approved.

Respectfully submitted,



Gary Locke
Governor

HB 2902
C 102 L 02

Affirming the authority of cities and towns to operate fire hydrants and streetlights.

By Representatives Santos, McDermott and Kenney.

House Committee on Local Government & Housing
Senate Committee on State & Local Government

Background: Cities and towns are authorized to operate as utilities and set the rates and charges for providing the service of water, sewer, electric power, heating fuel, solid waste removal, and transportation facilities.

City legislative authorities may order any local improvement to be constructed for a number of services, including street lighting systems together with the expense of furnishing electrical energy, maintenance, and operation, and water mains, hydrants, and apparatuses to trunk water.

The Attorney General's Office issued an opinion on January 17, 2001, which answered the question brought by the State Auditor's Office of whether or not cities and towns have the authority to impose a charge on their utility customers for the maintenance and operation of street lights. The answer was in the negative.

The answer is predicated on the fact that street lighting is not specifically mentioned in the municipal utility statutes as a utility a city or town might operate. The opinion further states that street lighting cannot be easily matched with current authorized utility functions due to the fact that no one can use less of a street light, whereas a customer can regulate the use of any other utility function. The opinion goes on to state that a utility necessarily involves the furnishing of a measurable service to particular persons and does not include services which benefit the general public.

Summary: Fire hydrants are included in the municipal utility authority for water service as an integral utility service incorporated within general rates.

Streetlights are included in the municipal utility authority for electricity service as an integral utility service incorporated within general rates.

Votes on Final Passage:

House	65	32
Senate	25	24

Effective: June 13, 2002

HB 2907
C 167 L 02

Encouraging fund-raising activities on behalf of the state legislative building.

By Representatives Schoesler, Romero, Alexander, Murray, Ogden, Mitchell and Nixon.

House Committee on State Government
Senate Committee on State & Local Government

Background: State ethics laws prohibit state officers and state employees from receiving, accepting, taking, seeking, or soliciting gifts. An exemption exists for the Capitol Furnishings Preservation Committee which may accept donations and gifts, as well as engage in and encourage fund-raising activities, for the limited purpose of recovering original and historic furnishings.

Summary: State officers and state employees are allowed to engage in fund-raising activities, including soliciting of charitable gifts, grants, or donations, for the limited purpose of preservation and restoration of the state legislative building and related educational exhibits and programs. These officers and employees are exempt from state ethics laws for this purpose.

Votes on Final Passage:

House	97	1
Senate	38	5

Effective: March 27, 2002

SHB 2914
FULL VETO

Creating the state financial aid account.

By House Committee on Appropriations (originally sponsored by Representatives Kenney, Fromhold, Cox, Morell, Haigh and Wood).

House Committee on Appropriations
Senate Committee on Ways & Means

Background: Ordinarily, state appropriations lapse at the end of the fiscal period for which they are made. Under legislation enacted in 1997, the operating budget bill contains a "reappropriation" under which general fund appropriations that would otherwise lapse at the end of the fiscal year are deposited in the savings incentive account and the education savings account. This means that if appropriations made to the state student financial aid programs are not completely expended at the end of the fiscal year, they are deposited in the education savings account. The Higher Education Coordinating Board is responsible for administering student financial aid appropriations during the fiscal year. Although the board attempts to spend the entire financial aid appropriation for aid to needy students, appropriations in some

financial aid programs lapse because of the difficulty of projecting student behavior and needs.

Summary: The state financial aid account is created in the custody of the State Treasurer. The purpose of the account is ensure that all appropriations designated for the State Need Grant Program, the State Work Study Program, the Washington Scholars Program, and the Washington Award for Vocational Excellence (WAVE) program are made available to eligible students. Only the executive director of the Higher Education Coordinating Board or the executive director's designee may authorize expenditures from the account.

Votes on Final Passage:

House	94	0
Senate	47	0

VETO MESSAGE ON HB 2914-S

April 3, 2002

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

Ladies and Gentlemen:

I am returning herewith, without my approval, Substitute House Bill No. 2914 entitled:

“AN ACT Relating to creating a financial aid account to ensure that all statewide student financial aid is made available;”

Substitute House Bill No. 2914 would have created a new account to receive unspent financial aid appropriations at the end of each fiscal year. The account would have been subject to allotment procedures, but no appropriation would have been required for expenditures by the executive director of the Higher Education Coordinating Board.

I support increasing financial aid for Washington college students. However, the legislative budget process should decide how much financial aid the state can provide compared to other financial demands in state government. This bill would allow general fund-state dollars to lapse into a non-appropriated account, effectively removing such funds from legislative budget deliberations. That would set an undesirable precedent.

For these reasons, I have vetoed Substitute House Bill No. 2914 in its entirety.

Respectfully submitted,



Gary Locke
Governor

EHB 2918
C 369 L 02

Authorizing certain organizations to conduct bingo.

By Representative Wood.

House Committee on Commerce & Labor
Senate Committee on Labor, Commerce & Financial Institutions

Background: By definition, the game of bingo may be conducted by charitable nonprofit organizations only. A

nonprofit group may conduct bingo up to three times per week, or it may allow its facility to be used to conduct bingo up to three times per week. No group may conduct bingo at any location where bingo is offered more than three times per week.

Summary: The three-times-per-week restriction is removed for conducting bingo games. A nonprofit organization may conduct bingo more than three times per week and may allow its facility to be used to conduct bingo more than three times per week. Currently licensed bingo operators also may share facilities at one location. An organization that conducts or allows its facility to be used to conduct bingo more than three times per week must include a warning against pathological gambling in any advertising or promotion of the organization's gambling activities.

Votes on Final Passage:

House	82	16
Senate	35	13 (Senate amended)
House	71	25 (House concurred)

Effective: June 13, 2002

SHB 2926
C 342 L 02

Transferring the state library to the office of the secretary of state.

By House Committee on Appropriations (originally sponsored by Representatives Clements and Grant).

House Committee on Appropriations

Background: The 1853 Organic Act that created the Territory of Washington provided for the establishment of a territorial library, and the State Library was created shortly after statehood. The library's primary mission is serving the government's information needs.

The major functions of the library are:

- providing reference and research support to the Legislature and state government agencies;
- serving as a central depository for current and retrospective collections of state and federal documents, newspapers, and state historical information;
- supporting the establishment, development, and coordination of local library service statewide;
- providing library services to residents and staff of correctional institutions, psychiatric hospitals, and institutions for the developmentally disabled; and
- providing online access to state and local government information.

Legislation enacted in 2000 directed the Washington State Institute for Public Policy (WSIPP) to study the mission, programs, and usage of the State Library. The WSIPP found that the library's mission is sound, but that the ways in which information is delivered to the Legislature and state agencies needs to change signifi-

cantly. The WSIPP made the following recommendations:

- The move from print to online content should be accelerated by joining a larger purchasing unit with the publicly funded academic libraries.
- The library's activities should be more sharply focused than they are today. A limited market system should be implemented by instituting fees for service to help clarify the relative value of services for users.
- A more aggressive book "weeding" campaign should be implemented.
- The physical presence of the library on the capitol campus should be reduced and more appropriate space for technical and service functions developed elsewhere.

The Governor's Proposed 2002 Supplemental Operating Appropriations Bill eliminated state support for the operation of the State Library, with the exception of the Washington Talking Book and Braille Library, effective October 1, 2002.

Summary: The State Library and the State Library Commission, along with their respective duties are abolished. A state library is established within the Office of the Secretary of State. The governance, including rule making authority, and all employees of the State Library and the State Library Commission are transferred to the Office of the Secretary of State. The state librarian is appointed by, and serves at the pleasure of, the Secretary of State.

The Office of the Secretary of State will receive all corresponding assets, tangible property, books, records, files, documents, reports, and other listed property in the possession of the State Library and State Library Commission. The powers, functions, and duties are transferred, and all rules and pending business before the State Library and State Library Commission will be continued by the Office of the Secretary of State.

All existing contracts and obligations will remain in full force and will be performed by the Office of the Secretary of State. Any appropriations made to the State Library and State Library Commission will be transferred and credited to the Office of the Secretary of State and will take place on July 1, 2002.

Additional duties are assigned to the state librarian, including establishing content-related standards for state agency produced information; accepting, expending and making applications for grants; and licensing professional librarians.

Any reduction-in-force actions that take place on or before June 30, 2005, will only provide layoff rights to positions that were within either of the separate agencies as the agencies existed on June 30, 2002.

To conform with these new provisions technical changes are made, including changing references to the State Library Commission.

Votes on Final Passage:

House	95	0
Senate	41	3

Effective: July 1, 2002

ESHB 2969

C 202 L 02

Addressing transportation improvement and financing.

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

House Committee on Transportation

Senate 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, vehicle licensing fees, and gross weight fees. Transportation funding can be divided into two general categories.

- **Motor Vehicle Fund:** The 18th Amendment to the Washington State Constitution requires that fuel tax and vehicle licensing fees be deposited in the Motor Vehicle Fund (MVF). Monies in that fund may only be spent for highway purposes. "Highway purposes" include highways and ferries but exclude transit and rail.
- **Multimodal Fund:** Other transportation funding is not restricted by the 18th Amendment and may be spent for any transportation purposes, including transit and rail.

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 money is spent wisely; make the system more accountable and predictable; and prepare a 20-year plan for funding and investing in the transportation system.

Among the recommendations of the BRCT were:

- **Recommendation 2:** "Establish a single point of accountability at the state level, strengthening the role of the state in ensuring accountability of the statewide transportation system."
- **Recommendation 17:** "Develop a package of new revenues to fund a comprehensive multimodal set of investments, which, taken together with the recommended efficiency measures and reforms, will ensure a 20-year program of preserving, optimizing and expanding the state's transportation system."

The state annually refunds a portion of motor vehicle fuel tax revenue to the Off-Road Vehicle (ORV) and Nonhighway Vehicle Account and the ORV and Nonhighway Vehicle Activities Program Account. The amount of the refund is 1 percent of the revenue

collected from the 18-cents-per-gallon fuel tax in effect on January 1, 1990.

Summary: The Legislative Transportation Committee is re-designated the Legislative Transportation Accountability Committee (LTAC). The Transportation Accountability Board (TAB) is established. The LTAC and TAB will monitor the efficient expenditure of additional revenues raised by the taxes authorized in the bill.

The Governor is directed to nominate five to nine members to the TAB with specific expertise in major civil engineering and construction works and facilities. The LTAC appoints the members based upon the Governor's nomination.

The TAB and LTAC will be responsible for monitoring the Washington State Department of Transportation's (WSDOT) performance in delivering projects funded by the revenue authorized by this bill. The WSDOT is required to submit quarterly progress reports to the TAB and LTAC after first allowing for review by the Transportation Commission. The board will either accept or reject the report. Upon acceptance, the reports are forwarded to the LTAC and to the Office of Financial Management.

The following transportation-related taxes are proposed, subject to referendum:

- **Gas tax:** 9-cent-per-gallon increase in the statewide motor vehicle and special fuel tax. The increase is phased in with two annual increases: 5 cents on January 1, 2003, and 4 cents on January 1, 2004.
- **Vehicle sales tax:** 1 percent increase in the sales tax on new and used vehicles. Revenue from the increase is distributed to the Multimodal Fund.
- **Weight fees:** 30 percent increase in gross weight fees for trucks over 10,000 pounds. The increase is phased in with two annual increases of 15 percent each on January 1, 2003, and January 1, 2004.
- **Bond authorization:** \$4.5 billion in bonds supported by gas tax revenues; \$100 million in general obligation bonds which may be used for multimodal projects.

In addition, sales and use tax paid on projects funded through the WSDOT's improvement program are transferred from the general fund to the multimodal transportation fund beginning in fiscal year 2006.

The refund to the ORV and Nonhighway Vehicle Account and the ORV and Nonhighway Vehicle Activities Program Account is increased such that it is 1 percent of the revenues from the 23-cent-per-gallon fuel tax in effect on July 1, 2001. Distribution of the increased amount is deferred until the statute defining the distribution formula is amended.

A referendum section provides for a public vote on the revenue provisions of the act at the next general election. The referendum clause takes effect immediately.

If the referendum is rejected by the voters, the entire act is null and void.

Votes on Final Passage:

House	54	44	
Senate	34	15	(Senate amended)
House			(House refused to concur)
Senate	30	17	(Senate amended)
House	75	23	(House concurred)

Effective: March 27, 2002 (Section 601)
 December 30, 2002 (if approved by the voters at the next general election)
 April 1, 2003 (Sections 401-402, if approved by the voters at the next general election)

EHB 2993
 C 329 L 02

Modifying water provisions.

By Representatives Linville and Kirby.

House Committee on Agriculture & Ecology

Background: Watershed Planning. State law establishes procedures and policies for initiating watershed planning at the local level.

Reclaimed Water. A permit may be secured for the use of reclaimed water by the generator of the reclaimed water. The generator of the reclaimed water may distribute the water according to the terms of the permit. The permit governs the location, rate, water quality, and purpose of use of the reclaimed water.

Trust Water Rights. A water right may be donated to or acquired by the state for management as a trust water right. The laws governing the state's trust water rights system are divided into two parts: one for the Yakima River Basin; and the other for the rest of the state. In 2001 an expedited process was established for donating water rights to either system. This process applies if: (1) an aquatic species is listed as threatened, endangered, or depressed under state or federal law; and (2) the holder of a right to water from the body of water chooses to donate all or a portion of the person's water right to the trust water system to assist in providing instream flows on a temporary or permanent basis. An expedited process was also established for the Department of Ecology (DOE) to lease water rights and place them in the trust system during droughts.

Under the expedited process for such a donation, neither the right donated nor the sum of the portion of a right remaining with the person plus the portion donated may exceed the extent to which the right was exercised during the last five years. Once accepted, the rights are trust water rights within the conditions prescribed by the donor that are relevant and material to protecting the donor's interest in the water right and that satisfy the requirements of the trust water laws. The acceptance of the right as trust water right is not evidence of the

validity or quantity of the right. Similar provisions were established for the leases by the DOE of water rights in areas covered by drought orders.

The requirement that the DOE examine a water right for potential impairment of existing water rights before a trust water right may be exercised is waived for such a donated right. It is also waived for or a drought-lease of five or less years. However, if the DOE subsequently finds that the donated or drought-leased right impairs existing water rights, the resulting trust right must be altered to eliminate the impairment. Current requirements that notice be published before a trust water right is exercised apply only for the first time such a donation or drought lease right is exercised as a trust water right.

Conservation Reserve Program. Federal law authorizes the enrollment of lands in a conservation reserve program to assist landowners to conserve and improve soil and water resources.

The Public Works Board is authorized to make low-interest or interest-free loans to finance the repair, replacement, or improvement of public works systems.

Summary: The objectives of local water management strategies that meet certain water needs are identified. The objectives are to provide sufficient water for: residential, commercial, and industrial needs; productive fish populations; and productive agriculture.

Compliance. The DOE must achieve compliance with the state's water laws and rules. Compliance is to be achieved through a network of water masters, stream patrollers, and other compliance staff to the extent funding is provided for the network. To the extent practicable, compliance personnel shall be distributed evenly among the regions of the state. A sequence is established for providing compliance which ranges from providing technical and educational information to issuing orders for violations. To the maximum extent practicable, the DOE is to station its compliance personnel in the watershed communities they serve.

Reclaimed Water. The state's reclaimed water laws are amended. Permits for the use of "industrial reuse water" are authorized. Such a permit is issued by the DOE under the water pollution control laws to the owner of a plant that is the source of the water who may then distribute the water. The owner has the exclusive right to the use of the reclaimed water; however, use of the water must not impair existing water rights or, if the source of the water is surface water, rights that are downstream from the plant's current discharge point. The Department of Health may implement its permit requirements through an agreement with the DOE.

Trust Water Rights. The expedited procedures are broadened for donating water rights to the trust water rights systems and for leasing water rights. The procedures now apply to any donation of a water right to assist in providing instream flows on a temporary or permanent basis and to any lease by the DOE. For other donations,

if a portion of a water right that is acquired or donated will assist in achieving established instream flows, the DOE must also provide expedited processing of the transfer of the right to the trust system.

Reservoir and Secondary Permits. Expedited processing of reservoir and secondary permit applications is to be provided for: developing storage facilities that will not require a new water right for diversion or withdrawal of the water to be stored; adding or changing one or more purposes of use of stored water; or adding to the storage capacity of an existing storage facility. The expedited processing is also to be afforded to applications for secondary permits for the use of water from existing storage facilities. A person may apply for a reservoir permit and a secondary permit in one application. A secondary permit is not required for the use of stored water if the water right for the source of the stored water authorizes the use. The DOE may authorize reservoirs to be filled more than once per year or season under certain circumstances.

Water Conservation Account. The Water Conservation Account is created in the custody of the state treasurer. Expenditures from the account are for the development and support of water conservation eligible under the federal conservation reserve program.

All receipts from federal funding dedicated to water conservation under the federal conservation reserve program are to be deposited in the account. The Legislature may also appropriate money to the account. The account is subject to allotment procedures, but an appropriation is not required for expenditures. Only the Public Works Board or its designee may make expenditures from the account.

Votes on Final Passage:

House	95	0
Senate	46	2

Effective: June 13, 2002

April 3, 2002 (Section 11)

EHB 3011
C 317 L 02

Modifying and studying the local effort assistance program.

By Representatives Fromhold, McIntire and Sommers.

House Committee on Appropriations

Background: In 1987 the Legislature created the Local Effort Assistance Program, also known as levy equalization, which provides state allocations to eligible school districts to match local maintenance and operation levy revenues.

The levy equalization formula compares the tax rate a district needs in order to raise an amount equal to 12 percent of its state and federal revenues with the state-wide average tax rate needed to raise 12 percent of state

HJM 4017

and federal revenues to all districts. Districts with above average tax rates receive a state rebate on local levy dollars.

Summary: The Legislature finds that changes in state and federal funding have taken place since the creation of the Local Effort Assistance Program making it necessary to reexamine whether the purpose of the program is being fulfilled.

The Joint Task Force on Local Effort Assistance is created. Membership on the task force consists of the following 19 members: six members from the House of Representatives, three from each caucus; six members from the Senate, three from each caucus; the Superintendent of Public Instruction; a member chosen by the Washington State School Directors' Association; a member chosen by the Washington Association of School Administrators; a member chosen by the Rural Education Center; a fiscal officer of an educational service district; and two members of school districts with student enrollments greater than 20,000.

By December 1, 2002, the task force is to complete an analysis of the history of the Local Effort Assistance Program and its impacts and determine whether the purpose of the Local Effort Assistance Program is being met under the current allocation formula.

Calendar year 2003 local effort assistance allocations to school districts will be reduced by 1 percent.

Votes on Final Passage:

House 62 35
Senate 35 13

Effective: April 2, 2002

HJM 4017

Opposing federalization of the National Guard.

By Representatives Haigh, Conway, Talcott, Schmidt, Carr and Simpson.

House Select Committee on Community Security

Background: The National Guard celebrated its 365 birthday in 2001 and is the oldest component of the Armed Forces of the United States of America. The National Guard consists of both the Army National Guard and the Air National Guard.

The National Guard allows for command and control of units by individual governors or by the President of the United States, depending upon the nature of the call to duty. The President reserves the right to mobilize the National Guard in federal status during national emergencies, and he serves as the commander-in-chief for units mobilized for federal active duty.

When National Guard units are not mobilized or under federal control, the governor of their respective state or territory serves as their commander-in-chief. The Adjutants' General of that state or territory are

responsible for their training and readiness. Under Title 32 of the United States Code, governors may mobilize National Guard units for state active duty. These soldiers are considered to be in "Title 32 status". Examples of the governor might call the National Guard into action include local or statewide emergencies, such as storms, drought, and civil disturbances.

National Guard soldiers deployed overseas in support of a federal mission would be under the control of the President of the United States. For example, soldiers that are part of Task Force Eagle in the Balkans, a NATO peacekeeping mission, are mobilized in federal active duty status. Soldiers are activated for federal active duty under Title 10 of the United States Code. These soldiers are considered to be in "Title 10 status."

National Guard soldiers may be mobilized in Title 32 status while helping out the federal government. For example, soldiers activated to augment security of airports after the September 11, 2001, attacks were in Title 32 status. Under Title 32, section 502 (f) of the United States Code, the National Guard can be placed in Title 32 status to assist the federal government "in the service of the United States." This allows governors to maintain command and control over their soldiers, and it places the soldiers in federal pay status.

The governors of the northern tier border states wrote to President Bush in November 2001 offering to provide prompt Title 32 National Guard augmentation for border security. A preliminary decision has been made to place the National Guard in Title 10 status.

Summary: The Legislature requests that the federal government accept the governors' offer to provide augmentation for border security with National Guard units mobilized under Title 32 of the United States Code ("Title 32 status"). Title 32 status is requested to allow governors to maintain command and control over their soldiers and to place the soldiers in federal pay status.

The Legislature also requests that the National Guard remain in Title 32 status while augmenting the border. The Legislature emphasizes that placing the National Guard in Title 10 status would degrade the combat readiness of units from which guardsmen mobilize; would interfere with state force management; and would prevent soldiers from making accommodations, both personally and with their respective civilian employers.

Votes on Final Passage:

House 96 0
Senate 45 0

HJM 4021

Honoring West Point on its 200th Anniversary.

By Representatives Buck, Rockefeller, Chandler, Holmquist, Schoesler, Mulliken, Sump, Cox, Pflug, Delvin, Cairnes, Sehlin, Armstrong, Jackley, Ballasiotes, Ahern, Talcott, Nixon, Jarrett, Skinner, Anderson, Lovick, Kenney, Morell, Schmidt, Miloscia, Simpson, Berkey, Lantz, Darneille, Fromhold, Hunt, Cooper, Conway, Casada, Esser, Campbell, Dunshee, Sommers, Gombosky, Ruderman, Eickmeyer, Kagi, Tokuda, Doumit, Sullivan, Cody, Wood, Pearson, Van Luven, Kessler, Chase, Ogden, Haigh and Woods.

Background: On March 16, 1802, President Thomas Jefferson signed into law a bill of the United States Congress authorizing the establishment of "a military academy to be located at West Point in the State of New York." West Point was originally created as an academic institution devoted to the arts and sciences of warfare. The academy later emphasized engineering to serve the needs of the nation and eliminate the country's reliance on foreign engineers and artillerymen.

Isaac I. Stevens, the first graduate of West Point's Class of 1839, served as the first Governor of the Territory of Washington and organized and led the Northern Railway Survey that paved the way for the transcontinental railroads to Washington. United States Military Academy graduates were responsible for the construction of many of the nation's initial railway lines, bridges, harbors, and roads and were responsible for the surveys and mapmaking used in the infrastructure development of the United States, including the state of Washington. The United States Military Academy led Army forces into the wilderness area that became the Territory and state of Washington, providing protection and development services until a civil authority was able to assume these functions.

The United States Military Academy is preparing for its third century of service to the nation by attracting some of the nation's best and brightest young men and women from throughout the country and the state of Washington. The United States Military Academy continues its commitment to its motto: Duty, Honor, Country.

Summary: The Washington State Legislature asks the President of the United States and Congress to join Washington and other states in honoring the 200th Anniversary of the United States Military Academy at West Point. The United States Military Academy is a living testament to the accomplishments of the United States throughout its history, and West Point and its graduates are recognized as they move forward into the Academy's third century of service to the Nation.

Votes on Final Passage:

House	94	0
Senate	48	0

EHJM 4025

Requesting that Congress modify IDEA to allow parent choice for assessment and treatment.

By Representatives Schindler, Ahern, Cox, Boldt, Mielke, Sump, Pearson, Nixon, Mulliken, Campbell, Benson, Morell, Talcott, Sehlin, Crouse, Buck, Holmquist, Esser, Schmidt, Ericksen, Haigh, Bush, Alexander, Anderson, Hankins, Lisk, Dunshee, Fisher, Mitchell, Woods, Armstrong, Grant, Santos, Hatfield, Wood, O'Brien, McDermott, Upthegrove, Jackley, Lysen, Kagi, Gombosky, Tokuda, Veloria, Kenney, Conway, Cody, Dickerson, Lantz, Fromhold, Berkey, Edwards, Chase, Lovick, Schual-Berke, Murray, Barlean, Jarrett, Cooper, Rockefeller, Simpson, Sullivan, Skinner, Eickmeyer, Ogden, Morris, Linville, Dunn and Darneille.

House Committee on Children & Family Services
Senate Committee on Health & Long-Term Care

Background: The federal Individuals with Disabilities Education Act (IDEA), Part C, provides for early intervention services for infants and toddlers ages three and under. Washington receives \$7.2 million in federal funding annually to assist eligible children and their families.

These funds are administered by the Infant Toddler Early Intervention Program (ITEIP). The Division of Developmental Disabilities (DDD) of the Department of Social and Health Services (DSHS), is the lead agency for this program, which funds an array of therapies and supports for children with special needs.

The IDEA, as amended in 1997, requires that children receive these services in "natural environments." Natural environments is defined as "settings that are natural or normal for the child's age peers who have no disabilities."

The Neurodevelopmental Centers of Washington are 14 community, non-profit and hospital-based agencies located across the state that provide speech, occupational and physical therapies and related services to young children with neuromuscular or developmental disorders. At the discretion of the child's primary care provider, referral for additional medical specialty consultation is also available. Other services may include nursing, nutrition, social work, educational services, adaptive equipment, computer augmented communication therapy, hydro therapy, etc. Three Consulting Tertiary Care Centers provide complex medical evaluations and training.

Under the current IDEA provisions, parents are not able to utilize federal funding for assessment and treatment of their children at the neurodevelopmental centers.

SHJM 4026

The IDEA is under consideration for reauthorization by Congress this year.

Summary: The memorialists request that Congress, during the reauthorization process for the IDEA, modify the wording for "natural environments" so that parents may choose to have their infants and toddlers assessed and treated at neurodevelopmental centers.

Votes on Final Passage:

House	96	0
Senate	49	0

SHJM 4026

Requesting a memorial to remember the internment of Japanese-Americans during World War II.

By House Committee on State Government (originally sponsored by Representatives Rockefeller, Woods, Jacklev, Murray, Lovick, Tokuda, Ogden, Romero, Hunt, McDermott, Veloria, Doumit, Jarrett, Talcott, Cox, Ballasiotes, Ahern, Orcutt, Schmidt, Esser, Santos, Cooper, Cody, Simpson, Benson, Carrell, Kessler, Schual-Berke, Linville, McIntire, Mulliken, Upthegrove, Chase and Van Luven).

House Committee on State Government
Senate Committee on State & Local Government

Background: On February 19, 1942, just a little over two months after the attack on Pearl Harbor, President Roosevelt signed Executive Order 9066 authorizing the military to exclude any person from designated military areas. This order authorized the military to: (1) designate military areas; and (2) to remove any persons considered a danger. On March 2, 1942, the West Coast commander of the United States Army issued Public Proclamation No. 1 which designated the entire West Coast a restricted military area. Twenty-two days later, on March 24, 1942, the army issued the first Civilian Exclusion Order resulting in the evacuation of approximately 227 Japanese on Bainbridge Island. By June 1942, over 110,000 Japanese-Americans were moved to concentration camps for the remainder of World War II.

Summary: A request is made to Congress to designate the former Eagledale Ferry Landing on Bainbridge Island as a national memorial to commemorate the unconstitutional internment of Japanese-Americans during World War II.

Votes on Final Passage:

House	87	0
Senate	49	0

HJR 4220

Amending the Constitution to restrict the number of years excess levies by fire protection districts can be made.

By Representatives Dunshee and Mulliken.

House Committee on Local Government & Housing
Senate Committee on State & Local Government
Senate Committee on Ways & Means

Background: The Washington State Constitution specifies that propositions to levy additional taxes for fire protection district operating purposes must be limited to a period of one year. An amendment to change the state constitution must be approved by a two-thirds majority of both houses of the Legislature, followed by a majority of the people.

Summary: A constitutional amendment is proposed to increase the one year period for authorizing a fire protection district operating levy. Propositions to levy additional taxes for fire protection district operating purposes may be for a period of up to four years and up to six years for the construction, modernization or remodeling of facilities.

The secretary of state is directed to give proper notice of a constitutional amendment to be ratified by the people.

Votes on Final Passage:

House	98	0
Senate	48	0

SB 5064
C 253 L 02

Defining degrees of gambling cheating.

By Senators Prentice and Winsley; by request of Gambling Commission.

Senate Committee on Labor, Commerce & Financial Institutions

House Committee on Commerce & Labor

House Committee on Criminal Justice & Corrections

Background: Generally, gambling statutes define the crime of cheating as the use of a device or scheme to defraud a player or operator; engaging in acts that operate as fraud; engaging in acts with the intent to cheat; and conspiring to cheat with others. Defendants found guilty of cheating are charged with a gross misdemeanor. When a defendant is guilty of a gross misdemeanor, the court may impose a sentence up to one year in jail, and fines not more than \$5,000, or both.

Summary: Cheating when participating in a gambling activity is divided into two separate crime classifications.

A person is guilty of cheating in the first degree if he or she engages in cheating and conspires with another to cheat, or engages in cheating when licensed or permitted by the Washington State Gambling Commission. Cheating in the first degree is a class C felony ranked at seriousness level IV on the sentencing grid (three to nine months for a first offense). The court may also impose a fine up to \$20,000.

A person is guilty of cheating in the second degree if he or she engages in cheating and his or her conduct does not constitute cheating in the first degree. Cheating in the second degree is a gross misdemeanor and the court may impose a sentence up to one year in jail and fines not more than \$5,000, or both.

Votes on Final Passage:

Senate	45	0	
House	93	1	(House amended)
Senate	39	0	(Senate concurred)

Effective: June 13, 2002

SB 5082
C 184 L 02

Defining rural counties for purposes of sales and use tax for public facilities in rural counties.

By Senators Haugen, T. Sheldon, Rasmussen and Gardner.

Senate Committee on Economic Development & Telecommunications

Senate Committee on Ways & Means

Background: In 1997, the Legislature permitted distressed counties to impose a local option sales and use

tax of 0.04 percent on all retail sales in their counties. The tax is credited against the state's 6.5 percent sales and use tax; therefore, the consumer does not see an increase in the amount of tax paid. Revenues from the local option sales and use tax are used to finance public facilities such as bridges, roads, and sewer facilities.

In 1999, the Legislature increased the local option sales and use tax to 0.08 percent and changed the definition of "distressed counties" to "rural counties."

Rural counties have population densities of less than 100 persons per square mile. Each year the Office of Financial Management determines which counties are eligible for rural county status. There are currently 31 rural counties.

Summary: The definition of "rural county" is expanded to include counties that are smaller than 225 square miles. Island County and San Juan County are the only two counties that meet this requirement. (San Juan County already qualifies under the population density criteria.)

Votes on Final Passage:

Senate	44	0
House	95	2

Effective: June 13, 2002

SSB 5097
C 293 L 02

Requiring public entities to display the national league of families' POW/MIA flag.

By Senate Committee on State & Local Government (originally sponsored by Senators Kastama, Winsley, Constantine, Hargrove, Oke, Rasmussen and Patterson).

Senate Committee on State & Local Government

House Committee on State Government

Background: The physical characteristics of the official flag of the State of Washington are described in statute. Both the state and national flags are required to be displayed in schools, court rooms and state buildings.

Summary: Every state agency, every state institution of higher education and every county, city, and town must display the national league of families POW/MIA flag along with the state and national flags upon or near its principal buildings on specific days. These days are Armed Forces Day, Memorial Day, Flag Day, Independence Day, National POW/MIA Recognition Day, and Veterans' Day. Information about purchasing and displaying the flag is provided by the Governor's Veterans' Affairs Advisory Committee.

SSB 5099

Votes on Final Passage:

Senate	45	0	
House	97	0	(House amended)
Senate			(Senate refused to concur)
House			(House refused to recede)
Senate			(Senate refused to concur)
House	98	0	(House receded)

Effective: June 13, 2002

SSB 5099

C 103 L 02

Designating medical directors.

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Winsley and Thibaudeau).

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

Background: The term "utilization review" is often used to describe a range of managed care cost containment strategies including monitoring a provider's pattern of treatment, determining the medical necessity of certain types or levels of treatment, and evaluating the efficacy, appropriateness or efficiency of certain treatments for certain health conditions. These efforts are typically overseen by the "medical director" of the given managed care entity. Concerns regarding the qualifications and accountability of medical directors have increased as managed care financing arrangements have come to dominate health insurance.

The Patient Bill of Rights, passed by the Legislature in 2000, requires Washington carriers that offer a health plan to designate a medical director who is licensed to practice in this state. This requirement, however, does not apply to plans that cover only dental care.

Summary: A health carrier that offers dental only coverage must designate a dental director who is licensed as a dentist in Washington, or in a state that has been determined by the Dental Quality Assurance Commission to have licensing standards that are substantially equivalent to those in Washington.

Votes on Final Passage:

Senate	47	0	
House	97	0	(House amended)
Senate	33	0	(Senate concurred)

Effective: June 13, 2002

SB 5138

C 254 L 02

Increasing the weight of vehicles exempted from scale stops.

By Senators Morton, Hochstatter, Benton, Oke, Stevens, McCaslin, Honeyford, Swecker, Sheahan, Johnson, Zarelli, Hale and Rossi.

Senate Committee on Transportation
House Committee on Transportation

Background: The Washington State Patrol is responsible for the operation of the weigh stations located throughout the state. The weigh stations are open on a random basis. Commercial motor carriers over 16,000 pounds and all carriers of hazardous materials are required to stop at a weigh station when it is open. In addition to weighing the vehicle, a commercial vehicle enforcement officer may examine the carrier's log books and check for proper permits and driver qualifications.

In 1999, the weight requirement was increased from 10,000 to 16,000 pounds.

Idaho and Oregon require only vehicles over 26,000 pounds to stop at an open weigh station.

Buses, recreational vehicles used for noncommercial purposes, and a vehicle towing a horse trailer for a non-commercial purpose are not required to stop at the scales.

Summary: Farm vehicles carrying farm produce with a gross weight of 26,000 pounds or less and unladen tow trucks are exempt from stopping at open weigh stations.

Votes on Final Passage:

Senate	45	2	
House	92	2	(House amended)
Senate	38	2	(Senate concurred)

Effective: June 13, 2002

SSB 5166

C 187 L 02

Allowing state financial aid to be used at Washington branch campuses of accredited out-of-state institutions of higher education.

By Senate Committee on Higher Education (originally sponsored by Senators Kohl-Welles, Carlson, Horn, Shin, Jacobsen and McAuliffe).

Senate Committee on Higher Education
Senate Committee on Ways & Means
House Committee on Higher Education
House Committee on Appropriations

Background: Currently, students who attend a branch campus located in Washington of a postsecondary institution accredited in another state are not eligible for state financial aid.

Summary: Students eligible for federal financial aid who attend on-site instruction at a Washington branch campus of a higher education institution accredited in another state may be eligible for state financial aid if the branch campus has been operating in Washington for a minimum of 20 years and has an enrollment of at least 700 FTE.

Votes on Final Passage:

Senate	47	0	
House	94	0	(House amended)
Senate	40	1	(Senate concurred)

Effective: June 13, 2002

ESSB 5207
C 318 L 02

Regulating DNA testing.

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Hargrove, Franklin and Kohl-Welles).

Senate Committee on Human Services & Corrections
House Committee on Health Care

Background: The state Uniform Health Care Information Act governs the use, access and disclosure of patient health care information, by health care providers, patients, and third parties. Health care information includes any information, whether oral or recorded, that identifies a patient and directly relates to the patient's health care. There is no specific reference to a patient's DNA or deoxyribonucleic acid, a component of human body cells unique to an individual.

Summary: A patient's deoxyribonucleic acid and identified sequence of chemical base pairs is included in the definition of health care information.

Votes on Final Passage:

Senate	46	0	
House	97	0	(House amended)
Senate	42	0	(Senate concurred)

Effective: June 13, 2002

SSB 5209
C 255 L 02

Allowing federally recognized Indian tribes to buy surplus real property from the department of transportation.

By Senate Committee on Transportation (originally sponsored by Senators T. Sheldon, Swecker, Regala, Rossi, Prentice and Costa).

Senate Committee on Transportation
House Committee on Transportation

Background: Under current law, when the Department of Transportation determines it no longer needs real property for transportation purposes, it may sell the land through auction or directly to a limited class of purchasers. RCW 47.12.063 outlines the entities or persons that may purchase surplus real property directly from the Department of Transportation, including state agencies, municipal corporations, persons with abutting property and former owners.

Summary: A federally recognized tribe is allowed to purchase surplus Department of Transportation land within its exterior reservation boundary.

Votes on Final Passage:

Senate	46	0
House	94	0

Effective: June 13, 2002

ESSB 5236
C 331 L 02

Ensuring the health and safety of newborn infants who have been abandoned and exempting from criminal liability persons who abandon them into the custody of a qualified person.

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Kohl-Welles, Long, Thibaudeau, Costa, McAuliffe, Eide, Stevens, Fairley, Prentice, Franklin, Fraser, Carlson, Spanel, Regala, Hargrove, Oke and Patterson).

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

Background: Since 1999 there have been several local incidents of newborn infants being abandoned in a variety of locations, including a convenience store, sidewalk, trash bin and restroom, putting the infant's health at grave and immediate risk. Under current state law, a person who abandons an infant can be criminally charged with abandonment of a dependent person, family abandonment or family non-support.

Summary: Parents who might otherwise abandon their newborn infant are encouraged to leave him or her in a safe place and increase the likelihood of survival. Immunity is provided from specific criminal liability for a parent who transfers a newborn to any hospital employee at a hospital emergency room or to fire station personnel at a staffed fire station. The hospital must give the parent the opportunity to provide family medical history anonymously. Child Protective Services is contacted within 24 hours. The hospital, fire station, staff, and volunteers are immune from criminal or civil liability for accepting a newborn. No changes are made to current law relating to dependency or termination of parental rights.

The Department of Social and Health Services must form a task force to determine how to implement this act

ESSB 5264

and report to the Governor and Legislature by December 1, 2002.

Votes on Final Passage:

Senate	46	0	
House	85	8	(House amended)
Senate	41	6	(Senate concurred)

Effective: April 3, 2002

ESSB 5264

C 155 L 02

Prohibiting public employers from misclassifying employees to avoid providing benefits.

By Senate Committee on Ways & Means (originally sponsored by Senators Prentice, Fraser, Patterson, Costa, Shin, Kline, Kohl-Welles, Constantine, Jacobsen, Winsley and Gardner).

Senate Committee on Labor, Commerce & Financial Institutions

Senate Committee on Ways & Means

House Committee on Commerce & Labor

House Committee on Appropriations

Background: Public employers sometimes provide a lower level of health insurance coverage, retirement plan coverage, sick or annual leave, or other employment-based benefits to persons who are employed on a part-time, temporary, leased, contract, or other contingent basis. The practice of providing less generous compensation to some contingent workers is sometimes justified on the basis that the employer should provide more generous compensation to persons who perform full-time services, or have performed services for a longer period of time. In some cases, however, public employers use labels to justify providing different levels of benefits to employees who have rendered identical levels of service, for identical periods of time, for the employer. In these cases, the employer may misclassify an employee as "temporary" or "leased" or "seasonal," when in fact the employee renders exactly the same services, for the same period of time as another employee who is labeled "permanent" or "full-time," and hence qualifies for better benefits.

The federal Internal Revenue Service has developed a 20 part test to determine whether a person is an employee or an independent contractor. Similar multi-factor tests are used by state agencies such as the Department of Retirement Systems, the Health Care Authority, the Employment Security Department, and the Department of Labor and Industries to determine whether an employee-employer relationship exists.

In recent years some public employers, such as Metro-King County, and the State Board for Community Colleges, have been taken to court by employees who claimed that they had been misclassified in some

manner. The law in this field has developed through judicial application and there is little statutory warning to public employers of the consequences they may face. Over the last decade, public entities in Washington have paid out over \$60 million in misclassification cases. A large case involving part-time community college faculty eligibility for retirement and health benefits is still pending.

Summary: It is an unfair practice for a public employer to misclassify an employee to avoid providing employment-based benefits, or to include language in an employment contract requiring an employee to forego employment-based benefits. "Employment-based benefits" mean any benefits to which an employee is entitled under any state law, employer written policies, or collective bargaining agreements. "Misclassify" means to incorrectly label a long-term public employee in a manner that does not objectively describe the employee's actual work circumstances.

Any person who believes he or she has been harmed by being misclassified may bring a civil action.

Votes on Final Passage:

Senate	30	18	
House	96	0	(House amended)
House	95	0	(House reconsidered)
Senate	45	0	(Senate concurred)

Effective: June 13, 2002

2ESSB 5291

C 256 L 02

Requiring access to certain immunizations for residents of long-term care facilities.

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Costa, Winsley, Franklin and Fraser).

Senate Committee on Health & Long-Term Care

House Committee on Health Care

Background: The Centers for Disease Control recommend all persons 65 and older, and others in high risk groups be immunized annually for influenza and pneumococcal disease. Several states require residents of nursing homes and other long-term care facilities be offered immunization for these illnesses.

Summary: Nursing homes, boarding homes, and adult family homes must offer access to immunizations against influenza to all residents on an annual basis. The vaccinations may be provided on-site or elsewhere. Long-term care facilities are required to inform employees and residents verbally and in writing of the benefits of these flu and pneumococcal disease vaccines.

Votes on Final Passage:

Senate	48	0	
House	91	3	(House amended)
House	91	2	(House reconsidered)
Senate	43	0	(Senate concurred)

Effective: June 13, 2002**SSB 5292**

C 190 L 02

Modifying definitions of public energy projects.

By Senate Committee on Environment, Energy & Water (originally sponsored by Senators T. Sheldon, McDonald, Fraser, Hochstatter, Regala, Stevens, Kastama, Snyder, Honeyford, Patterson, Eide and Hale).

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

Background: Initiative No. 394 was enacted by the voters in 1981. It requires public agencies to obtain voter approval prior to issuing bonds for the construction or acquisition of major public energy projects. Public agencies include public utility districts (PUDs), joint operating agencies (which are groups of PUDs), cities, and counties.

The initiative defined a major public energy project as a new or expanded plant or installation capable of generating more than 250 megawatts. Projects larger than 250 megawatts are subject to a public vote by the voters living within the boundaries of the public agency. The manner in which the election must be conducted is specified, including when it shall be held, what information must be provided to the voters regarding the costs and financing of the project, and the form and content of the ballot proposition.

Summary: The size of a "major public energy project" that requires voter approval for public financing is increased from a public project that generates more than 250 megawatts to one that generates more than 350 megawatts.

Votes on Final Passage:

Senate	38	5	
House	76	20	(House amended)
Senate	39	8	(Senate concurred)

Effective: June 13, 2002**2SSB 5354**

C 257 L 02

Modifying mobile home relocation assistance.

By Senate Committee on Labor, Commerce & Financial Institutions (originally sponsored by Senators Patterson, Prentice, Winsley, Fraser, Fairley, Costa, Regala and McAuliffe; by request of Department of Community, Trade, and Economic Development).

Senate Committee on Labor, Commerce & Financial
Institutions

House Committee on Local Government & Housing

House Committee on Appropriations

Background: Redevelopment pressures have led to the closure of many mobile home parks in recent years, particularly in the most populous regions of the state. This trend seems likely to continue.

The impact of park closure on a mobile home owner is severe. Some older mobile homes are not movable, and the owner's equity is lost. The cost of moving a mobile home, if a place can be found, is approximately \$3,000 to \$7,500.

The Washington Supreme Court invalidated the Mobile Home Relocation Assistance Act in 1993. However, a fund still exists, made up of fees collected prior to the court decision.

Park owners must give at least 12 months notice to tenants before a park may be closed.

Summary: The Mobile Home Relocation Assistance Act is amended to cover demolition and replacement expenses in cases where the home cannot be successfully moved. Assistance is limited to actual expenses up to \$7,500 for a double wide, and \$3,500 for a single wide home. Mobile home owners that cannot move their homes are eligible for assistance in purchasing a replacement. Eligibility for relocation assistance is limited to households with income at or below 80 percent of the median income for the county where the mobile home is located.

Relocation assistance is prioritized to tenants in parks closed as a result of fraud on the part of the park owner, and parks closed due to health hazards declared by local health officials.

A fee of \$100 is imposed on the purchaser of a used mobile home located in a mobile home park. Homes with a sale price of less than \$5,000 and mobile homes less than one year old are excluded from the fee. The fees collected are forwarded to the State Treasurer for deposit into the mobile home park relocation fund. The Department of Revenue is authorized to retain 2 percent of the fees collected to cover its administrative cost. The Department of Community, Trade, and Economic Development is entitled to deduct up to 5 percent of the fees collected to cover its administrative costs.

SSB 5369

Votes on Final Passage:

Senate 39 10
House 66 28 (House amended)
Senate 28 14 (Senate concurred)

Effective: January 1, 2003

SSB 5369

C 199 L 02

Revising provisions for jurisdiction in child support matters.

By Senate Committee on Judiciary (originally sponsored by Senators Kline, Long and Costa; by request of Department of Social and Health Services).

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

Background: The Department of Social and Health Services, Division of Child Support, is responsible for collecting child support in many situations, both to reimburse for public funds paid to support children and to assist custodial parents in collecting support and medical insurance. The proceedings are often complex and involve numerous parties. The Division of Child Support suggests that some statutes involving adjustment and termination of support orders, service of process, and defining the status of the actual custodian of the dependent child as a party in support proceedings need modification.

Summary: The following changes are made in actions for collection of child support:

- (1) Provisions for child support are terminated when the parents marry each other after an order setting child support payments becomes effective;
- (2) In some circumstances, a petition for modification of child support payments must be served on the prosecuting attorney of the county in which the action is filed;
- (3) A child's custodian who is not a parent has the same notice and hearing rights as a custodial parent in administrative proceedings setting child support obligations;
- (4) Child support orders based on payment standards which were previously in effect can be changed in an administrative proceeding filed by the Division of Child Support;
- (5) The Division of Child Support is authorized to serve notice on financial institutions using regular mail if there is a central levy or garnishment address and if the notice is clearly identified as a levy or garnishment order; and
- (6) An administrative law judge is given the authority to enter a support order which differs from that originally requested by the department if

any party appears and presents credible evidence supporting that order, or if the parties agree.

Votes on Final Passage:

Senate 47 0
House 96 0 (House amended)
Senate 44 0 (Senate concurred)

Effective: June 13, 2002

SB 5373

C 339 L 02

Changing mandatory arbitration of civil actions.

By Senators Sheahan, Kline, McCaslin, Thibaudeau, Kastama, Long, Roach, Johnson and Constantine.

Senate Committee on Judiciary
House Committee on Judiciary

Background: Arbitration is a nonjudicial method for resolving disputes in which a neutral party is given authority to decide the case. A statute allows any superior court, by majority vote of its judges, to adopt mandatory arbitration in prescribed cases. In counties of 70,000 or more population, the county legislative authority may also impose this mandatory arbitration. This mandatory arbitration applies to cases in which the sole relief sought is a money judgment of \$15,000 or less. By a two-thirds vote, the judges of the superior court may raise this limit to \$35,000.

An award by an arbitrator may be appealed to the superior court. The superior court will hear the appeal "de novo;" that is, the court will conduct a trial on all issues of fact and law essentially as though the arbitration had not occurred.

The mandatory arbitration statute provides that Supreme Court rule will establish the procedures to be used in mandatory arbitration. The statute also provides that the Supreme Court rules may allow for the recovery of costs and "reasonable" attorney fees from a party who demands a trial de novo and fails to improve his or her position on appeal. The determination of whether or not the appealing party's position has been improved is based on the amount awarded in arbitration compared to the amount awarded at the trial de novo.

Summary: An offer of compromise procedure is provided for mandatory arbitration cases that are appealed to the superior court.

- A non-appealing party may serve an appealing party with a written offer to settle the case.
- If the appealing party does not accept the offer, the amount of the offer becomes the basis for determining whether the party that demanded the trial de novo fails to improve his or her position on appeal for purposes of awarding reasonable attorney fees and costs under the court rules.

- The award of reasonable attorney fees and costs against an appealing party who fails to improve his or her position is made mandatory in statute. The superior court is also authorized to assess these same fees and costs against a party who voluntarily withdraws a request for a trial de novo, but only if the voluntary withdrawal is not made in connection with the acceptance of an offer of compromise.

Votes on Final Passage:

Senate 37 11
House 65 28

Effective: June 13, 2002

SSB 5400

C 239 L 02

Clarifying that the community economic revitalization board may make loans and grants to federally recognized Indian tribes.

By Senate Committee on Economic Development & Telecommunications (originally sponsored by Senators T. Sheldon, Franklin, Shin, Regala, Costa and Gardner; by request of Governor Locke).

Senate Committee on Economic Development & Telecommunications

House Committee on Trade & Economic Development
House Committee on Capital Budget

Background: The Community Economic Revitalization Board (CERB) program was created in 1982 to provide direct loans and grants to counties, cities, and ports for economic development-related infrastructure improvements. CERB funds may not be used to: (1) facilitate or promote a retail shopping development or expansion; (2) finance projects that would displace existing jobs in any other community in the state, except where jobs are being relocated from nondistressed urban areas to rural areas or rural natural resources impact areas; and (3) acquire real property, including buildings and other fixtures that are part of real property.

Summary: Federally-recognized Indian tribes are added to the list of eligible recipients of loans or grants from the Community Economic Revitalization Board (CERB) for the purpose of financing economic development-related infrastructure improvements that result in specific private development or expansion.

CERB funds may not be used to facilitate or promote gambling.

Votes on Final Passage:

Senate 30 18
House 71 25

Effective: June 13, 2002

SSB 5433

C 13 L 02

Providing for establishment of parent and child relationship for children born through alternative reproductive medical technology.

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Regala, Winsley and Thibaudeau).

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

Background: In 1975 the Legislature passed the uniform parentage act, which contained a provision regarding artificial insemination. Unless a contract specifies that he is to be the father, a sperm donor is not treated as the father in cases of artificial insemination. The past legislation did not address egg donors, as that technology was not yet as well developed or utilized.

Under current law, the legal status of a child born from assisted reproductive technology may not be determined at the time of the child's birth. The egg donor, surrogate mother, or spouse of either may need to file a legal action to establish a legal relationship with his or her child.

The Department of Health issues birth certificates through vital statistics.

Summary: A parent may be established by an affidavit and a physician's certificate in cases where a child is born through alternative reproductive medical technology pursuant to the terms of a contractual agreement. The affidavit is filed with the registrar of vital statistics at the Department of Health. The affidavit and physician's certificate must be filed within ten days of the date of the child's birth.

An egg donor is treated in law as if she were not the natural mother, unless a contract specifies that she intended to be a parent. The contract must be in writing and a physician must certify the parties' signatures and other procedural matters. The contract must be filed with the registrar of vital statistics at the Department of Health. The department must keep the agreement confidential.

The Department of Health is authorized to issue a birth certificate based upon the filed agreement.

Votes on Final Passage:

Senate 48 0
House 97 0

Effective: June 13, 2002

SB 5513
C 355 L 02

Compensating highway and ferry workers for motorist assault.

By Senators Haugen, Shin, T. Sheldon, Sheahan, Oke and Gardner.

Senate Committee on Transportation
House Committee on Transportation

Background: Washington State Department of Transportation (WSDOT) employees who are injured on the job are currently entitled to benefits under either state industrial insurance law or federal maritime law.

Summary: A program is created to provide supplemental reimbursement to employees of the WSDOT who are victims of "motorist assault." "Motorist assault" is defined as an act by a motorist that results in physical injury to an employee of the WSDOT while that employee is engaged in: (1) highway construction or maintenance activities along the roadway or right-of-way; or (2) the loading and unloading of passenger vehicles on state ferries.

To qualify for benefits, the Secretary of Transportation must find:

- (1) the employee was the victim of motorist assault and sustained demonstrated physical injuries that required the employee to miss one or more days of work;
- (2) the assault was not attributable in any way to the employee's negligence, misconduct, or failure to follow any rules or condition of employment;
- (3) the employee's workers' compensation application or benefits under federal maritime laws have been approved; and
- (4) the employee's absences were justified.

Qualifying employees are eligible for the following benefits:

- (1) the employee's accumulated sick leave days are not reduced for workdays missed;
- (2) the employee continues to receive full benefits, such as vacation leave, sick leave, and health insurance;
- (3) employees covered by state industrial insurance receive the full amount of their net pay at the time of the injury for each workday missed for which they are not eligible to receive compensation under industrial insurance law; and
- (4) if the employee received compensation under state industrial insurance law or federal maritime law, the employee receives only the difference between that compensation and the employee's full net pay for the workdays missed.

The benefits of this program last one year from the date of the injury. Claims must be made within one year after the day the injury occurred. Additionally, the

employee must diligently pursue compensation under state industrial insurance law or federal maritime law.

The WSDOT is responsible for making all payments required under this act. The WSDOT is not precluded from recovering these payments from the assaulting motorist.

Votes on Final Passage:

Senate	48	0
House	80	16

Effective: June 13, 2002

3SSB 5514
PARTIAL VETO
C 363 L 02

Changing provisions relating to public facilities districts.

By Senate Committee on Ways & Means (originally sponsored by Senators Spanel, Carlson, Hale, Gardner, Rasmussen, Winsley, Regala, Costa and Fraser).

Senate Committee on Ways & Means

Background: Both cities and counties have the authority to create Public Facilities Districts (PFD). A PFD is a municipal corporation and a taxing authority. In the case of a city-created PFD, its purpose is to build or rehabilitate and operate a regional center costing at least \$10 million after July 25, 1999. A regional center includes a convention center, special events center and related parking facilities. The city or group of contiguous cities creating the PFD must be located in a county or counties of less than one million population.

A PFD may assess a 0.033 percent sales and use tax if it begins construction or renovation of a regional center before January 1, 2003. (This tax is deducted from the state sales tax and is not an increase to taxpayers.)

Summary: The requirements for a PFD to qualify to impose the 0.033 percent sales tax are changed so that the PFD must be formed by July 31, 2002 and construction must begin by January 1, 2004.

A full state and local sales tax refund is available to all PFDs when building a regional center. The sales tax proceeds are refunded to the PFD when the regional center is operationally complete. No refunds shall be given before January 2006.

A town or city or contiguous groups thereof may form a PFD with the county or counties in which they are located, as long as the county or counties have populations of less than one million. The boundary of the PFD is coextensive with the county boundary or boundaries minus any nonparticipating towns and cities. The governing body is a seven-member board of directors appointed for four-year staggered terms. The term "special events center" is defined.

Cities are allowed to tax the admissions at a public facility if the revenue is dedicated to that public facility.

Votes on Final Passage:

Senate 40 7
 House 89 8 (House amended)
 Senate 34 10 (Senate concurred)

Effective: June 13, 2002

Partial Veto Summary: The sales tax refund (section 3) of the bill was vetoed.

VETO MESSAGE ON SB 5514-S3

April 4, 2002

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, Third Substitute Senate Bill No. 5514 entitled:

“AN ACT Relating to public facilities districts;”

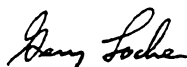
This legislation expands the ability of local governments to construct facilities for community and sporting events, trade shows, conventions, and the like. These regional centers can play an important role in the development of downtown areas. I support this bill with the deadline extensions and tools it provides to local governments.

However, I do not agree with section 3 of the bill. That section would have provided for a refund of sales and use taxes on the construction of any regional center that is built after the effective date of the bill. We continue to collect sales and use taxes on the construction of virtually all other public facilities - including schools, universities, and city and county government buildings, with few, very limited exceptions. Refunding sales and use taxes on the construction of the projects described in this bill would create an undesirable policy precedent, and would have a significant fiscal impact that cannot be sustained during these times of budgetary difficulty. Additionally, I cannot in good conscience commit a future legislature to the significant loss of revenue that would occur when these refunds would have come due in 2006.

For these reasons, I have vetoed section 3 of Third Substitute Senate Bill No. 5514.

With the exception of section 3, Third Substitute Senate Bill No. 5514 is approved.

Respectfully submitted,



Gary Locke
 Governor

SB 5523
 C 57 L 02

Authorizing an offset for certain overpayments of tax concerning leased equipment.

By Senators Horn, Rossi and Snyder.

Senate Committee on Ways & Means
 House Committee on Finance

Background: The sales tax is imposed on retail sale of most items of tangible personal property and some services. Use tax is imposed on the use of an item in Wash-

ington when the acquisition of the item or service has not been subject to sales tax. The combined state and local sales and use tax rate ranges between 7 and 8.6 percent, depending on location.

The retail sales tax applies to sales of property to consumers. Property that is purchased for resale or leasing is exempt from the retail sales tax because it is not a sale to a consumer. However, the subsequent leasing of such property to consumers is subject to sales tax.

By statute, there exists a four-year time limit on tax refunds or credits for taxes, penalties or interest due.

Summary: An exception is granted to the four-year limitation of refunds regarding overpayments of sales tax on leased equipment. A taxpayer is allowed to credit the sales tax paid incorrectly on the original sale to offset the amount of sales taxes subsequently owed on the leased property.

Votes on Final Passage:

Senate 44 0
 House 94 0

Effective: June 13, 2002

SSB 5543
 C 205 L 02

Improving student safety.

By Senate Committee on Education (originally sponsored by Senators Kastama, McAuliffe, Eide, Regala, Rasmussen, Thibaudeau, Costa, Kohl-Welles and Winsley; by request of Governor Locke; Superintendent of Public Instruction).

Senate Committee on Education
 House Committee on Education

Background: Current law requires the State Board of Education, upon the advice of the Washington State Patrol's Director of Fire Protection, to adopt and distribute rules concerning the evacuation of schools during a "sudden emergency." Pursuant to this authority, the State Board has issued rules requiring local school boards and governing bodies of private schools to develop and practice evacuation plans. These plans are to be taught periodically to all school personnel and practiced as frequently as may be necessary.

Summary: The Superintendent of Public Instruction (SPI), in consultation with stakeholders, must provide guidance to school districts in developing comprehensive safe school plans. The guidance must at least include a safety checklist and model safety plans. The model plans must include the following components: (1) prevention, (2) intervention, (3) all hazards/crisis response, and (4) post-crisis recovery. Additionally, the SPI must establish timelines for districts to develop safety plans and must require districts to periodically report progress regarding the plans.

The State Board of Education's rule-making authority requiring emergency evacuation plans at public and private schools is removed.

Information compiled in the development of safety plans, to the extent it identifies school vulnerabilities, is exempt from public disclosure.

Votes on Final Passage:

Senate	46	0	
House	89	3	(House amended)
Senate	45	0	(Senate concurred)

Effective: March 27, 2002 (Sections 2 and 4)
 June 13, 2002
 September 1, 2002 (Section 3)

SSB 5552
 C 130 L 02

Expanding border county higher education opportunities.

By Senate Committee on Higher Education (originally sponsored by Senators Carlson, Kohl-Welles, Hale, B. Sheldon, Hewitt, Sheahan, Shin, Zarelli, Parlette and Horn).

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

Background: In 1999, the Legislature created the Border County Higher Education Pilot Project administered by the Higher Education Coordinating Board (HECB). Under the pilot project, residents of Oregon who have resided in Columbia, Multnomah, Clatsop or Washington counties for at least 90 days are eligible to pay resident tuition rates if they enroll in community college programs located in the Washington counties of Clark, Cowlitz, Wahkiakum, or Pacific. Residents of the four Oregon counties who enroll in courses at the Vancouver branch of Washington State University for eight or fewer credits may pay resident tuition rates. Participating Washington institutions are required to give priority program enrollment to Washington residents. In 2000, the pilot project was expanded to include residents of Clackamas County, Oregon.

By November 30, 2001, the HECB must report to the Governor and the Legislature on the results of the pilot project and make recommendations on the extent to which border county tuition policies should be revised or expanded. For each participating institution, the HECB is required to analyze, by program, the impact of the pilot project on enrollment levels, distribution of students by residency, and enrollment capacity.

Summary: The project continues as a pilot and is expanded to allow Washington institutions of higher education located in counties on the Oregon border to implement tuition policies that correspond to Oregon policies. Columbia Basin Community College, Walla

Walla Community College, and the Tri-Cities branch of Washington State University are added to the list of participating Washington institutions of higher education. A number of Oregon counties are added to the project and eligible students must reside in all participating counties for one year. The HECB must submit a report to the Legislature by December 1, 2003.

Votes on Final Passage:

Senate	47	0	
House	96	0	(House amended)
Senate	46	0	(Senate concurred)

Effective: June 13, 2002

SB 5594
 C 258 L 02

Consolidating housing authorities.

By Senators Gardner, Winsley, Prentice and Honeyford.

Senate Committee on Labor, Commerce & Financial Institutions

House Committee on Local Government & Housing

Background: Housing authorities are local government agencies, authorized by the Legislature in 1939. They are created by a declaration of need by the city or county they serve. Current law allows the creation of a joint housing authority to serve a county and a city or cities within the county. Housing authorities are the principal conduit for federally funded housing programs, such as Section 8 vouchers. Housing authorities also own and operate some rental properties.

Summary: Various configurations of joint or consolidated housing authorities are authorized. One or more counties and any city or cities within one or more counties may, through joint legislative action, create a consolidated housing authority. Provisions regarding appointment of housing authority commissioners and their removal do not apply to joint housing authorities.

Votes on Final Passage:

Senate	48	0
House	96	0

Effective: June 13, 2002

ESB 5624
C 259 L 02

Requiring disclosure of fire protection and building safety information.

By Senator Kohl-Welles.

Senate Committee on Judiciary
House Committee on Local Government & Housing

Background: Landlords are required by state law to keep the premises of their building(s) fit for human habitation. Included is the responsibility to maintain the premises to substantially comply with applicable codes. The Governor's Fire Protection Task Force made many recommendations concerning fire safety in boarding homes. The task force also looked at fire safety in multi-family dwellings, such as apartment buildings. Members of that task force suggest that tenants of multi-family dwellings be provided with written notice of fire safety procedures and equipment in the multi-family dwellings they rent.

Summary: Landlords of single-family residences must provide written notice disclosing fire and protection information. The landlord of a multi-family dwelling must provide written notice or a checklist to tenants that discloses the specific fire protection and safety information for the building. The written notice must be provided to new tenants at the time the agreement is signed and must be provided to current tenants by no later than January 1, 2004.

Votes on Final Passage:

Senate	49	0	
House	95	1	(House amended)
Senate	46	0	(Senate concurred)

Effective: June 13, 2002

ESB 5626
C 292 L 02

Modifying the definition of veteran.

By Senators Rasmussen, Oke, Swecker, Winsley, Snyder, Shin, Roach, Patterson, McAuliffe and Benton; by request of Joint Select Committee on Veterans' and Military Affairs.

Senate Committee on State & Local Government
House Committee on State Government

Background: The current statutory definition of "veteran" does not include peacetime veterans, except those who served between World Wars I and II, or those who served in the reserves or National Guard, or those who served in the Philippine Armed Forces and Scouts in World War II. It does include Merchant Mariners who served in World War II.

This definition governs eligibility for pre-LEOFF I fire fighters' pensions; police relief and pensions in first class cities; PERS Plan I retirement benefits; exemption from payment of fees at state universities, regional universities and The Evergreen State College; admission to the soldiers' and veterans' homes; veterans' preference on civil service exams; free license plates for disabled veterans and prisoners of war; county aid to indigent veterans and families; restrictions on sending veterans or families to alms houses; and county burial of indigent deceased veterans.

Drivers licenses issued to any person serving in the armed forces of the United States remain valid as long as the service continues.

Summary: For some purposes, the definition of veteran includes: (a) peacetime veterans and those who have fulfilled their initial military service obligation in any branch of the armed services and the National Guard and reserves; (b) those in the National Guard, reserves or Coast Guard who have been called into federal service by a presidential select reserve call up for at least 180 cumulative days; and (c) those who served in the Philippine Armed Forces or Scouts in World War II. The purposes to which this definition applies are for the veterans' preference on civil service exams; free license plates; county aid to indigent veterans; restrictions on sending veterans to alms houses; county burials; and those service categories of the modified definition to current service members eligible to have continuing valid drivers' licenses.

The Higher Education Coordinating Board and Joint Committee on Pension Policy must study what would be the effect on their respective agencies of changing to the more inclusive definition of veteran.

Votes on Final Passage:

Senate	44	2	
Senate	49	0	(Senate reconsidered)
House	92	0	(House amended)
Senate	46	0	(Senate concurred)

Effective: June 13, 2002

SB 5629
C 260 L 02

Changing the office of financial management's budgeting, accounting, and reporting requirements for state agencies.

By Senators Patterson and Horn.

Senate Committee on State & Local Government
House Committee on State Government

Background: State agencies must file copies of equipment service contracts with the Office of Financial Management and payments on these contracts may be made only three months prior to when the services are

provided. An assessment district must send notice of intent to improve or make an assessment on a parcel of state land to the Office of Financial Management. When an assessment roll is created, the assessment district must forward to the Office of Financial Management a list of all lands within the district that the state owns, leases, or has a possessory interest in. Further, the Office of Financial Management must be notified when an assessment district has foreclosed on land which the state owns, leases, or has a possessory interest in. Finally, the Office of Financial Management shall be notified when an eminent domain commission files an eminent domain assessment with the court on land which the state owns, leases, or has a possessory interest in.

In recent years, services to the public mandated by state law have been provided by personal service and client service contracts between the state agency and the service provider.

Summary: Assessment districts do not have to file a notice with the Office of Financial Management (OFM) of an assessment, foreclosure or improvement on land which the state owns, leases, or in which the state has a possessory interest. Eminent domain commissions no longer need to inform the Office of Financial Management when the commission files an eminent domain assessment with a court. State agencies no longer have to file equipment service contracts with the Office of Financial Management and payments may be made up to 12 months prior to the actual service.

OFM must develop mandatory guidelines and training for the management of personal service and client service contracts by state agencies. OFM is also required to conduct risk-based audits of state contracting practices. The State Auditor and the Attorney General must provide annual reports to the Legislature of contract audit findings, enforcement actions, and status of agency resolution.

Votes on Final Passage:

Senate	49	0	
House	96	0	(House amended)
Senate	36	0	(Senate concurred)

Effective: March 29, 2002 (Section 7)
 June 13, 2002
 January 1, 2003 (Sections 8 and 9)

ESB 5692
 C 237 L 02

Creating youth courts.

By Senators Costa, Long, Hargrove, Rasmussen and Kohl-Welles.

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

Background: Youth court programs offer a means for involving the community in a partnership with the juvenile justice system to respond to the problem of juvenile crime. Youth court programs respond to juvenile crime by increasing awareness of the delinquency issues within the local community, and mobilizing the community to take an active role in addressing the problem of juvenile crime within the community.

Youth court programs are designed to provide an alternative within the juvenile justice system for first time, nonviolent juvenile offenders in which community youth determine the appropriate sanctions for the offender. Youth court programs hold youthful offenders accountable and provide educational services to offenders and youth volunteers in an effort to promote long-term behavioral change that leads to enhanced public safety.

Summary: The Office of the Administrator for the Courts must encourage the courts to work with cities and counties to implement or expand youth court programs for juveniles who commit diversion-eligible offenses and civil or traffic infractions. They must be developed in accordance with nationally recognized guidelines, target offenders between the ages of eight and 17, and emphasize certain principles, such as accountability, problem solving, and education regarding the impact of their behavior. They may be established by private nonprofit organizations, and schools under the supervision of the juvenile court.

Youth courts have authority over juveniles who, along with a parent, guardian, or legal custodian, voluntarily request youth court involvement. The juvenile must admit to committing the offense, waive any privilege against self-incrimination, and agree to comply with the disposition ordered by the youth court. A juvenile is ineligible for youth court if he or she is under the continuing jurisdiction of the juvenile court for a law violation, including a pending matter which has not been adjudicated.

A youth court may decline to accept a juvenile for youth court disposition for any reason, and may terminate a juvenile from youth court participation at any time. A juvenile may withdraw from the youth court process at any time.

Every juvenile appearing before a youth court must be accompanied by his or her parent, guardian, or legal custodian. Youth courts must give the victim of an offense the opportunity to be notified, present, and heard in any youth court proceeding.

In addition to the disposition options available under diversion, youth courts are also authorized to order participation in law-related education classes, mentoring programs, and future youth court proceedings. They may also require juveniles to provide periodic reports to the youth court, write essays, and write apology letters. Youth courts may require that juveniles pay reasonable

fees to participate in youth court, educational classes, counseling, or treatment. They may not order confinement.

A youth court may require that a youth pay a nonrefundable fee, not exceeding \$30, to cover the costs of administering the program. A monetary penalty imposed may not exceed \$100.

Traffic and civil infraction cases involving juveniles may be diverted to a youth court by any municipal or district court.

The Office of the Superintendent of Public Instruction must encourage school districts to implement or expand student court programs for students who violate school rules. Local school boards may provide school credit for students who participate in youth or student courts.

The Office of the Administrator for the Courts must provide available data on youth courts to the Sentencing Guidelines Commission. The commission, as part of its report to the Legislature, must report on the impact of diversions on racial disproportionality, if such information is available.

Votes on Final Passage:

Senate	46	3	
House	76	18	(House amended)
House	78	16	(House reconsidered)
Senate	41	3	(Senate concurred)

Effective: June 13, 2002

SB 5735
C 196 L 02

Allowing motorcycles to have blue dot taillights.

By Senators Gardner, Roach, Haugen, Hochstatter, Honeyford, Stevens, Deccio, Rossi, Zarelli, Benton, Horn, T. Sheldon, Sheahan, Spanel, Shin, Finkbeiner, Hargrove, West, Long and Franklin.

Senate Committee on Transportation
House Committee on Transportation

Background: Under current law, taillights on the back of motor vehicles must be the color red and must be visible from a distance of one thousand feet to the rear. There is an exception for vehicles 40 years old or older, in that their taillights may also contain a blue or purple insert of not more than one inch in diameter.

Summary: Any motorcycle may use a taillight that contains a blue or purple insert of not more than one inch in diameter.

Votes on Final Passage:

Senate	48	0	
House	93	0	
House	94	0	(House reconsidered)

Effective: June 13, 2002

ESSB 5748
C 189 L 02

Integrating transportation and land use planning.

By Senate Committee on Transportation (originally sponsored by Senators McAuliffe, Horn, Shin, Winsley, Oke, Haugen, Kohl-Welles and Kastama; by request of The Blue Ribbon Commission on Transportation).

Senate Committee on Transportation
House Committee on Transportation

Background: The Governor and the Legislature created the Blue Ribbon Commission on Transportation (BRCT) in 1998 to do the following: assess the local, regional, and state transportation system; ensure that current and future money is spent wisely; make the system more accountable and predictable; and prepare a 20-year plan for funding and investing in the transportation system.

In Recommendation 5, the BRCT recommends that the state invest in maintenance, preservation, and improvement of the entire transportation system so that transportation benchmarks can be achieved. Specifically, the BRCT recommends that jurisdictions integrate transportation and land use planning by developing a long-term and effective strategy to reduce both traffic and investment costs by focusing new commercial and multi-family growth in existing downtown, pedestrian, and transit-friendly neighborhoods.

Summary: City and county planning commissions, in carrying out their duties, should demonstrate how land use planning is integrated with transportation planning.

Code cities should direct their planning agencies to include in their development plans the integration of transportation and land use planning.

Priority programming for the highway improvement program must take into account: support for development in and revitalization of existing downtowns; the extent to which the project accommodates planned growth and economic development; the extent that development implements local comprehensive plans; the extent of compact, transit-oriented development at appropriate residential and nonresidential densities; and the feasibility of multimodal transportation.

The small city program is exempt from the land use criteria considered in Transportation Improvement Board funding decisions. Cities with a population less than 5,000 are exempt from the requirement that the state priority programming process take into account synchronization with other potential transportation projects, including transit and multimodal projects.

Votes on Final Passage:

Senate	48	0	
House	71	25	(House amended)
Senate	41	4	(Senate concurred)

Effective: June 13, 2002

ESSB 5777

C 319 L 02

Permitting retired and disabled employees to obtain health insurance.

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Prentice, Winsley, Thibaudeau, Deccio and Rasmussen).

Senate Committee on Health & Long-Term Care

Senate Committee on Ways & Means

House Committee on Health Care

House Committee on Appropriations

Background: Local government employees have health insurance coverage through the state Health Care Authority if their employer contracts with the state Health Care Authority for such coverage.

Under certain conditions, local government employees covered by the state Health Care Authority may continue their participation in the insurance plans of their employer after they retire or are disabled. Such retired or disabled employees are responsible for paying their own premiums, but the premiums charged must be developed from the same experience pool as active employees.

Local government employees not covered by the state Health Care Authority have no other right under state law to continue to participate in the insurance plans of their employer after they retire or are disabled.

Federal law, under the Consolidated Omnibus Budget Reconciliation Act (COBRA), requires that employees who retire be allowed to purchase group health insurance from their employer for a period of 18 months, at a rate no more than 2 percent higher than active employees would pay. COBRA does not apply to retirees eligible for Medicare.

Summary: With some exceptions and under certain terms and conditions, retired or disabled local government employees not covered by the state Health Care Authority (HCA) must be allowed to continue participation in a health plan of their employer.

A local government may require a retired or disabled person who requests continued participation in its health plan to pay the full cost of such participation, including any amounts necessary for administration.

Other conditions are established regarding, among other things, enrollment periods, coordination of benefits with a participant's other employer-based medical coverage, and coverage of dependents if the retired or disabled employee dies.

If the HCA determines that allowing political subdivisions to participate in HCA health plans is adversely impacting state employee insurance rates, it must implement limitations on the participation of additional political subdivisions.

The act takes effect January 1, 2003, but allows political subdivisions up to one year following this date to come into compliance.

Votes on Final Passage:

Senate	47	0	
House	93	0	(House amended)
Senate	44	0	(Senate concurred)

Effective: January 1, 2003

SSB 5823

C 132 L 02

Repealing student improvement goals.

By Senate Committee on Education (originally sponsored by Senator McAuliffe; by request of Academic Achievement and Accountability Commission).

Senate Committee on Education

House Committee on Education

Background: In 1998 the Legislature required school districts to establish three-year performance improvement goals to increase the number of students meeting or exceeding the reading standard on the fourth grade Washington Assessment of Student Learning (WASL). At a minimum, the districts were required to adopt goals to decrease, by at least 25 percent, the number of students who did not meet the fourth grade reading standard.

In 1999 the Legislature added statutory goals in fourth and seventh grade mathematics. By December 15, 2001, school districts were required to adopt goals that, by the 2003-04 school year, would reduce by at least 25 percent, the number of students in those grades who did not meet the state's mathematics standards.

In 1999 the Legislature also gave the Academic Achievement and Accountability Commission the authority to adopt and revise, in rule, performance improvement goals in reading, mathematics, writing, and science. In 2001 the commission adopted in WAC 3-20-100 three-year goals in reading and mathematics for grades four, seven, and 10. The commission retained the minimum decrease of 25 percent in the number of students who did not meet the state standards in those subjects.

Summary: The current statutory performance improvement goals for fourth grade reading and fourth and seventh grade mathematics are repealed.

Votes on Final Passage:

Senate	42	5
House	93	0

Effective: June 13, 2002

E2SSB 5827

C 261 L 02

Changing provisions relating to the enforcement of judgments.

By Senate Committee on Judiciary (originally sponsored by Senator McCaslin).

Senate Committee on Judiciary
House Committee on Judiciary

Background: A party, in whose favor a judgment has been rendered, by a court of record of this state or district court of this state, may have an execution issued for collection or enforcement of the judgment at any time within ten years of the judgment. The party may apply to have the time extended for an additional ten years. To extend the time within which a party may execute on a judgment, however, the judgment must have been rendered by a court of record of this state and the application must be made to the court that rendered the judgment. See, *Johns v. Erhart*, 85 Wn.App. 607 (1997). There is also some question regarding whether a judgment that has been sold or transferred by operation of law may be extended because the present legal judgment holder may not be the original judgment creditor.

Summary: Parties with judgments issued by a superior or district court of the counties of this state, the state Court of Appeals, the state Supreme Court, United States bankruptcy courts, United States district courts, United States courts of appeals, the United States Supreme Court, or the courts from foreign states and jurisdictions, may have an execution issued for collection or enforcement of a judgment entered or filed in this state at any time within ten years of the judgment. Judgments from these courts may be extended for an additional ten years upon application to the court that rendered the judgment or where the judgment was filed.

Any current legal owner or holder of a judgment may have execution issued and may apply for extension of the judgment. It is clarified that garnishments and other legal process can also be used to collect the judgment and may be extended. It is clarified that once a district court judgment is transcribed to superior court for enforcement, the superior court judgment is the only one that needs to be extended.

Applications to extend the initial period are granted as a matter of right, subject to limited review. No filing fee is required for extension of a criminal restitution judgment. Judgments are not enforceable for a period exceeding 20 years from the date of entry in the original court, except for legal financial obligations and restitution in an adult or juvenile criminal case or child support obligations. Once filed, a recorded judgment lien remains in full force and effect, and retains its original priority, without the need to re-record it after extension.

Votes on Final Passage:

Senate	46	0
House	93	0

Effective: June 13, 2002

SB 5832

C 262 L 02

Enabling counties planning under chapter 36.70A RCW to create nine lots in a short subdivision within a designated urban growth area.

By Senator Haugen.

Senate Committee on State & Local Government
House Committee on Local Government & Housing

Background: A "short subdivision" is the division or re-division of land into four or fewer lots, tracts, parcels, sites, or divisions for the purpose of sale, lease, or transfer of ownership. Currently, the legislative authority of any city or town may, by local ordinance, increase the number of lots, tracts, or parcels to be regulated as short subdivisions to a maximum of nine.

Summary: The legislative authority of any county planning under the Growth Management Act (GMA) that has adopted a comprehensive plan and development regulations in compliance with GMA may by ordinance increase the number of lots, tracts, or parcels to be regulated as short subdivisions to a maximum of nine in any urban growth area.

Votes on Final Passage:

Senate	43	3
House	92	0

Effective: June 13, 2002

SSB 5841

C 320 L 02

Establishing a schedule for review of comprehensive plans and development regulations adopted under the growth management act.

By Senate Committee on State & Local Government (originally sponsored by Senators Patterson, McCaslin, Gardner, Sheahan, T. Sheldon, Deccio, Haugen, Winsley and Hochstatter).

Senate Committee on State & Local Government
House Committee on Local Government & Housing

Background: Each county or city planning under the Growth Management Act (GMA) that has adopted a comprehensive land use plan must review its plan and development regulations by September 1, 2002, and every five years thereafter. Every ten years a county or

city must review its urban growth boundaries. These two reviews may be combined.

Summary: The Department of Community, Trade, and Economic Development (CTED) must establish a schedule for counties and cities to review and, if needed, revise their comprehensive plans and development regulations. Counties and cities not planning under the Growth Management Act must use this schedule to review and revise policies and regulations regarding critical areas and natural resource lands. The review and evaluation must include consideration of critical area ordinances and, if planning under the GMA, an analysis of the population allocation determined by the most recent 10-year forecast by OFM. The schedule must provide for reviews and evaluations as follows:

- (a) By December 1, 2004, and every seven years thereafter, for Clallam, Clark, Jefferson, King, Kitsap, Pierce, Snohomish, Thurston, and Whatcom counties, and the cities within those counties. If any of these counties or their cities has conducted a review and evaluation of its comprehensive plan and development regulations and, on or after January 1, 2001, has taken action in response to this review, it shall be deemed to have conducted the first review required by this act. Subsequent review and evaluation by such county or city must be conducted in accordance with the established time periods;
- (b) By December 1, 2005, and every seven years thereafter, for Cowlitz, Island, Lewis, Mason, San Juan, Skagit, and Skamania counties and the cities within those counties;
- (c) By December 1, 2006, and every seven years thereafter, for Benton, Chelan, Douglas, Grant, Kittitas, Spokane, and Yakima counties and the cities within those counties; and
- (d) By December 1, 2007, and every seven years thereafter, for Adams, Asotin, Columbia, Ferry, Franklin, Garfield, Grays Harbor, Klickitat, Lincoln, Okanogan, Pacific, Pend Oreille, Stevens, Wahkiakum, Walla Walla, and Whitman counties and the cities within those counties.

Counties and cities may begin this process early and may be eligible for grants from CTED, subject to available funding, if they elect to do so.

Noncompliance with this schedule eliminates eligibility for various loans, grants, and preferences.

Votes on Final Passage:

Senate	33	13	
House	92	0	(House amended)
Senate	38	7	(Senate concurred)

Effective: June 13, 2002

ESB 5852

C 14 L 02

Reporting on issues pertaining to racial profiling.

By Senators Franklin, Kline, Costa and Kohl-Welles.

Senate Committee on Judiciary

House Committee on Criminal Justice & Corrections

Background: Racial profiling is the illegal use of race or ethnicity as a factor in deciding to stop and question, take enforcement action, arrest, or search a person or vehicle with or without a legal basis under the United States Constitution or the state Constitution.

There has been concern that some law enforcement officers in this state engage, or have engaged, in racial profiling. The Washington State Patrol (WSP) recently completed a study on routine traffic stops. An analysis of the data appears to indicate that the WSP does not engage in racial profiling. However, the data also showed that there are differences for white persons and non-white persons regarding enforcement action and related searches that require more thorough analysis by WSP to account for the differences.

While some local law enforcement agencies have collected data on traffic stops, there has not been a comprehensive study by local law enforcement agencies to determine if racial profiling is occurring in some cities or counties. The Washington Association of Sheriffs and Police Chiefs has made several recommendations for local law enforcement agencies to ensure that policing procedures are fair, equitable, and constitutional.

Summary: Local law enforcement agencies are to comply with the recommendations of the Washington Association of Sheriffs and Police Chiefs regarding the issue of racial profiling. The agencies must:

- Adopt a written policy designed to condemn and prevent racial profiling.
- Review existing procedures, practices, and training to ensure that they do not enable or foster the practice of racial profiling.
- Continue training programs to prevent occurrences of racial profiling.
- Institute a citizen complaint review process to address instances of racial profiling and to provide appropriate disciplinary procedures within each department.
- Work with minority groups in their community.
- Within fiscal constraints, collect demographic data on traffic stops and analyze that data to ensure that racial profiling is not occurring.

The Criminal Justice Training Commission is to ensure that racial profiling issues are addressed in law enforcement training classes conducted by the commission.

The Washington Association of Sheriffs and Police Chiefs must report to the Legislature by December 31,

2002, and each year thereafter, on the progress and accomplishments of local law enforcement agencies in meeting the requirements and goals of the act.

Votes on Final Passage:

Senate	48	0
House	80	17

Effective: June 13, 2002

2SSB 5949

C 321 L 02

Erecting and maintaining motorist information sign panels.

By Senate Committee on Transportation (originally sponsored by Senators Haugen and Swecker).

Senate Committee on Transportation
House Committee on Transportation

Background: The Washington State Department of Transportation (WSDOT) is authorized to erect and maintain motorist information signs within the right of way of the highway system to provide the traveling public with information regarding gas, food, lodging, and tourist-oriented businesses available at or near an interchange. The WSDOT is also authorized to erect and maintain motorist information signs on noninterstate highways for businesses accessible by highways intersecting the noninterstate highway.

The WSDOT must charge reasonable fees to defray the cost of installation and maintenance of motorist information signs.

Summary: The WSDOT shall contract with a private contractor for 10 years to erect and maintain motorist information signs. The contractor is solely responsible for marketing, administration, financial management, installation and maintenance costs. Any contract between the WSDOT and the contractor must require the contractor to install and maintain authorized community historical signs at no cost to the WSDOT.

Votes on Final Passage:

Senate	47	0	
House	95	3	(House amended)
Senate			(Senate refused to concur)
House	92	2	(House amended)
Senate	41	0	(Senate concurred)

Effective: June 13, 2002

ESB 5954

C 307 L 02

Updating obsolete language.

By Senators Shin, Roach, Oke, Costa, Patterson, Hargrove, T. Sheldon, Hochstatter, Eide and Jacobsen.

Senate Committee on State & Local Government
House Committee on State Government

Background: Current laws refer to people of Asian ancestry as "Oriental."

Summary: The use of the term "Oriental" is prohibited and the term "Asian" must be used beginning with all official documents enacted after July 1, 2002.

Votes on Final Passage:

Senate	43	4	
House	86	6	(House amended)
Senate	42	2	(Senate concurred)

Effective: July 1, 2002

2SSB 5965

C 343 L 02

Authorizing local option real estate excise taxes for affordable housing purposes.

By Senate Committee on Ways & Means (originally sponsored by Senators Spanel, Gardner, Kohl-Welles, Kline and Rasmussen).

Senate Committee on Ways & Means

Background: The real estate excise tax applies to sales of real property and is collected when the sale document is recorded with the county. The tax is imposed on the value of the real property transferred.

The state tax rate is 1.28 percent of the selling price. Cities and counties may levy a tax of 0.25 percent for capital improvements. Cities and counties may impose an additional 0.5 percent for general purposes if they do not impose the second 0.5 percent of the local sales tax, but this tax is subject to referendum. Cities and counties may levy additional taxes of up to 0.25 percent for growth management programs, but cities and counties not required but choosing to plan under the Growth Management Act must obtain voter approval before imposing the tax. Finally, counties may impose a tax of up to 1.0 percent to finance the acquisition of conservation areas, subject to voter approval. City taxes are imposed in the city and county taxes are imposed in the unincorporated areas of the county, except the tax for conservation areas, which is county-wide. The taxes are paid by the seller, except the conservation area tax is paid by the buyer.

Summary: An additional real estate excise tax is authorized for counties equal to 0.5 percent of the selling price to be used exclusively for the development of affordable housing, including acquisition, building, rehabilitation,

and maintenance and operation of housing for very low, low, and moderate income persons and those with special needs.

The proposal for the tax may be initiated by the county commissioners or by petition signed by 10 percent of the total number of voters voting in the last county election.

The tax requires voter approval and is imposed county-wide. The tax is imposed on both the purchaser and the seller, as determined by the county legislative authority, with at least one-half of the tax being on the purchaser.

Moneys are distributed on a competitive grant and loan process as determined by the legislative authority. Eligible recipients of grants and loans include private nonprofit, affordable housing providers, the housing authority for the county, or other housing programs conducted or funded by a public agency, or by a public agency in partnership with a private nonprofit entity.

No tax may be imposed unless the county imposes the 1.0 percent tax for conservation areas at the maximum rate and imposes the tax by January 1, 2003.

Votes on Final Passage:

Senate 31 17
House 50 48

Effective: June 13, 2002

SB 5999
C 104 L 02

Modifying the telephone assistance program.

By Senators B. Sheldon, Fairley, Carlson, Snyder, Rossi, Costa, Eide, Kline and Winsley.

Senate Committee on Economic Development & Telecommunications

House Committee on Technology, Telecommunications & Energy

House Committee on Appropriations

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, operated by the Department of Social and Health Services (DSHS) and the Washington Utilities and Transportation Commission (WUTC), provides for a reduced monthly charge for basic telephone service, discounts on connection fees, and waivers of deposits for local service.

Households are eligible if they have an adult recipient of one or more types of public assistance administered by DSHS. The program currently serves approximately 24 percent of the eligible households.

The program is funded exclusively by a \$.13 excise tax on all switched telephone lines in the state. In fiscal year 2001, the excise tax receipts collected from partici-

pating telephone companies were \$5.76 million, and program costs were \$5.95 million. The unreconciled fund balance at the end of the program year was \$7.6 million.

Community voice mail is a computerized telephone answering system that can act like a home answering machine for hundreds or thousands of people in a community. It can provide recipients with an individual telephone number and a voice mailbox where they can record a personal greeting and access their messages from any location, even if they do not have traditional telephone service.

Currently eight Washington cities are operating community voice mail programs through their local community action agencies, primarily for low-income and homeless people who are searching for employment or are working under other case management plans.

Summary: A new class of eligible recipients is added for the Washington Telephone Assistance Program (WTAP). Participants of community service voice mail programs are eligible for WTAP services after completion of the voice mail program. Their period of eligibility lasts for the remainder of the current WTAP service year and the following service year.

Community agencies that administer community service voice mail programs must notify the Department of Social and Health Services of participants who are eligible under this provision.

Relevant definitions are included.

Votes on Final Passage:

Senate 49 0
House 93 0

Effective: June 13, 2002

2ESB 6001
C 263 L 02

Authorizing inspections of tenant dwelling units for fire code violations.

By Senators Carlson and Winsley.

Senate Committee on Judiciary

House Committee on Local Government & Housing

Background: There is currently no civil authority for a fire department official to enter any building to inspect for fire code violations. The chief of the Washington State Patrol, through the director of fire protection, is given authority to enter any building other than a private dwelling to inspect for fire hazards. However, if entry is denied, the director of fire protection is given no statutory authority to enforce the right to enter by obtaining a civil court order for inspection.

The United States Supreme Court has ruled that Washington courts are without authority to issue warrants allowing civil inspection for fire code violations because no statute or court rule provides that authority.

A specific authorizing statute is necessary. Fire department officials are concerned that they are not able to inspect dwelling units in an apartment building even when they have reason to believe that dangerous conditions exist in the unit. Conditions which constitute a fire danger are especially hazardous in multi-unit apartment buildings since a fire in one unit constitutes a serious risk to all occupants of the building.

Summary: Fire officials may immediately seek a search warrant if tenants or landlords deny the fire official the right to search dwelling units and common areas. A court must issue a search warrant if it finds that there is probable cause, specific to the dwelling unit or common area, of a criminal fire code violation. Evidence obtained during a fire inspection may be used in a civil or enforcement action.

Votes on Final Passage:

Senate	47	0	
House	92	0	(House amended)
Senate	44	0	(Senate concurred)

Effective: June 13, 2002

ESSB 6008
C 203 L 02

Providing commute trip reduction incentives.

By Senate Committee on Ways & Means (originally sponsored by Senators Eide, Finkbeiner, Haugen, Kline, Winsley and McAuliffe; by request of Office of Financial Management).

Senate Committee on Transportation
Senate Committee on Ways & Means

Background: Major employers (100 or more employees) in the state's nine largest counties are currently 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 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 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 reimburse-

ment to the general fund were eliminated when the state motor vehicle tax was repealed.

In 1999, Governor Locke vetoed legislation extending the tax credit until 2006, citing concerns over the impact to the air pollution control account. In 2000, legislation proposed by Governor Locke to have the general fund absorb the amount of the tax credits until 2006 did not pass.

Summary: The commute trip reduction tax credit, which expired on December 31, 2000, is reenacted until June 30, 2012. Employers that provide incentives for employees to car pool 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, 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 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.

There is a limit of \$100,000 per employer per year and no tax credit can be greater than taxes due. Tax credits cannot be carried back or forward.

Until June 30, 2012, the Department of Transportation must administer a program for organizations not eligible to receive the tax credits, including public agencies, nonprofit organizations, developers and property managers for grants of 50 percent of those incentives paid by employers and property managers for CTR incentives.

There is an overall limit each biennium, or portion of a biennium, on tax credits and grants funded by the multimodal transportation account. The limits are as follows: \$2 million in 2001-2003; \$3 million in 2003-2005; \$5 million in 2005-2007; \$8 million in 2007-2009; \$8 million in 2009 - 2011; and \$4 million in 2012. The tax credits expire June 30, 2012.

If funding is not provided for the act by December 31, 2002, this act is null and void.

Votes on Final Passage:

Senate	37	10
House	93	5

Effective: January 1, 2003

SB 6036
PARTIAL VETO
 C 6 L 02

Repealing local motor vehicle taxes.

By Senators Eide, Benton, Winsley, Oke, Long, Stevens, Johnson, Finkbeiner, Hale, Hochstatter, Carlson, Swecker, Rossi, Roach, T. Sheldon, Patterson and Kastama.

Senate Committee on Transportation
 House Committee on Transportation

Background: Initiative 695 passed in November 1999, repealing the Motor Vehicle Excise Tax (MVET). RCW 35.58.273 (local excise tax for transit) was not among the 44 sections that I-695 expressly repealed.

In late 1999, the state Attorney General's Office concluded that I-695 impliedly repealed RCW 35.58.273 because of the close relationship between the collection of state MVET and the local excise tax (the local tax was applied as a credit against the MVET collected). Accordingly, as of January 1, 2000, state and local agencies did not collect the tax.

During the 2000 legislative session, SB 6865 passed the Legislature. SB 6865 repealed the MVET and imposed a \$30 license tab fee. It also repealed eight sections of the law; RCW 35.58.273 was not included among those sections.

On May 17, 2000, *ATU Legislative Council of Washington State and Washington State Transit Association v. State of Washington and 26 Counties and Their Auditors* was filed in Thurston County Superior Court. The lawsuit asked the court to declare that RCW 35.58.273 was not impliedly repealed by SB 6865.

In October 2000, the Washington State Supreme Court affirmed the King County Superior Court decision invalidating I-695.

On February 2, 2001, a Thurston County Superior Court judge ruled that SB 6865 did not impliedly repeal RCW 35.58.273. The court further ruled that the Department of Licensing, not the county auditors or the transit districts has the primary obligation to collect the tax. The judge stayed the implementation of his decision pending the outcome of any appeal.

Summary: RCW 35.58.273 and all other statutes regarding the expenditure of money generated by that statute are repealed. The effect of the act is made retroactive to January 1, 2000.

Votes on Final Passage:

Senate	33	15
House	77	21

Effective: March 1, 2002

Partial Veto Summary: The intent section is vetoed in order to eliminate an apparent contradiction between the language of the intent section, which purports to elimi-

nate all local vehicle excise taxes, and the bill, which eliminates vehicle excise taxes for public transportation benefit areas, but not vehicle excise taxes for other transit bodies.

VETO MESSAGE ON SB 6036

March 1, 2002

*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. 6036 entitled:

"AN ACT Relating to local motor vehicle excise taxes;"

Senate Bill No. 6036 repeals certain motor vehicle excise tax statutes that were not expressly repealed in earlier legislation. Section 1 of the bill is an uncodified statement of intent. However, section 1 contains a drafting error that puts it in conflict with the operative portions of the bill. Consequently, the chairs of the Senate and House transportation committees have requested that section 1 be vetoed.

For these reasons, I have vetoed section 1 of Senate Bill No. 6036.

With the exception of section 1, Senate Bill No. 6036 is approved.

Respectfully submitted,



Gary Locke
 Governor

SSB 6037
 C 157 L 02

Authorizing animal care and control agencies and non-profit humane societies to provide limited veterinarian services.

By Senate Committee on Agriculture & International Trade (originally sponsored by Senators Prentice, Kohl-Welles and Parlette).

Senate Committee on Agriculture & International Trade
 House Committee on Agriculture & Ecology

Background: Animal control agencies and humane societies are not allowed to offer veterinarian services to the public. Additionally, only licensed veterinarians are allowed to operate a business that practices veterinary medicine. There is a desire that animal control agencies and humane societies be allowed to provide some veterinary care in case of emergencies and basic services to low-income pet owners.

Summary: Animal control agencies and humane societies are allowed to use only veterinarians or veterinary technicians acting within his or her scope of practice to perform limited services to animals owned by low-income households. The limited services that can be provided by animal control and humane societies continue

to include electronic identification, surgical sterilization, and vaccinations.

The Veterinary Board of Governors must adopt rules that establish registration requirements, governs the purchase of drugs used at these facilities, and ensures compliance. The limited service authority granted by registration may be denied, revoked or conditioned by the board. The Uniform Disciplinary Act is to govern unregistered operation, issuance and denial of registrations, and discipline of registrants. The Department of Health must establish registration fees.

Votes on Final Passage:

Senate	46	0	
House	95	1	(House amended)
Senate	43	0	(Senate concurred)

Effective: July 1, 2003

ESSB 6060

C 105 L 02

Updating references for purposes of the hazardous substances tax.

By Senate Committee on Ways & Means (originally sponsored by Senator Fraser; by request of Department of Revenue).

Senate Committee on Ways & Means
House Committee on Finance

Background: A state tax is imposed on the first possession of a hazardous substance in this state. The rate of tax is 0.7 percent of the wholesale value. Proceeds of the tax are deposited 47.1 percent into the state toxics control account and 52.9 percent into the local toxics control account.

Taxable hazardous substances include:

- (1) Hazardous substances under the Federal Comprehensive Environmental Response, Compensation, and Liability Act as of March 1, 1989;
- (2) Petroleum products; and
- (3) Pesticides required to be registered under the Federal Insecticide, Fungicide and Rodenticide Act.

Summary: References to the federal acts are updated. Taxable hazardous substances under the Federal Comprehensive Environmental Response, Compensation, and Liability Act are updated to reflect the hazardous substances under the act as of March 1, 2002. Excepted are non-compound metals in solid form in a particle larger than 100 micrometers in diameter. Taxable pesticides required to be registered are limited to those required to be registered as of August 3, 1996, the last date the act was amended.

Votes on Final Passage:

Senate	47	0
House	96	0

Effective: July 1, 2002

SB 6061

C 15 L 02

Requiring quarterly meetings of municipal firemen's pension boards.

By Senator Patterson.

Senate Committee on Ways & Means
House Committee on Appropriations

Background: Prior to the creation of the Law Enforcement Officers and Fire Fighters Retirement System (LEOFF) in 1970, cities that employed full-time paid fire fighters established Municipal Firemen's Pension Boards to administer the benefits of the city's Firemen's Pension Fund. Beginning in 1970, all full-time fire fighters became members of LEOFF, but fire fighters who were covered by one of the city pension funds at that time had the option of retiring under the benefits of the pre-LEOFF system, if those benefits were more generous than the LEOFF benefits. The city pension boards continued to operate for the benefit of the small number of retired fire fighters who elected to receive benefits pursuant to the pre-LEOFF plans.

The statutes that established the Municipal Firemen's Pension Boards provided that the boards shall meet at least once monthly. With each passing year, the boards have fewer members and issues to deal with and there is much less need for meetings.

Summary: Municipal Firemen's Pension Boards are required to meet at least quarterly.

Votes on Final Passage:

Senate	47	0
House	96	0

Effective: June 13, 2002

ESSB 6076

C 128 L 02

Modifying the powers and duties of fish and wildlife law enforcement officers.

By Senate Committee on Judiciary (originally sponsored by Senators Kline, McCaslin, Oke, T. Sheldon, Snyder, Hargrove and Rasmussen; by request of Department of Fish and Wildlife).

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

Background: Currently, Fish and Wildlife officers do not have the authority to issue a citation for violating traffic laws, or arrest a person for violating general criminal laws unless the criminal offense takes place in the

officer's presence. Instead, Fish and Wildlife officers are designated as "limited authority peace officers" who only have the authority to enforce the laws governing the subject matter of their agency, unless a criminal offense occurs in the officer's presence.

Given that nearly all Fish and Wildlife officers have successfully completed the basic law enforcement academy course, or an equivalency course, sponsored by the Criminal Justice Training Commission, it is suggested that such officers be designated as "general authority peace officers" with such police powers and duties as are vested in sheriffs. It is argued that such a change would enhance public safety, reduce the workload of other police officers, and remove some of the ambiguity in current statutes governing the authority of Fish and Wildlife officers.

Summary: Fish and Wildlife officers are general authority peace officers and have the same police powers and duties as are vested in sheriffs and peace officers generally.

All Fish and Wildlife officers must be citizens of the United States who can read and write the English language. All officers employed on or after the effective date of the act must successfully complete the basic law enforcement academy course, or an equivalency course, sponsored by the Criminal Justice Training Commission.

Fish and Wildlife officers do not have the authority to conduct warrantless searches of noncommercial private areas or otherwise exceed constitutional search provisions.

Provisions of the act do not provide membership in the PEOFF retirement system.

Notes on Final Passage:

Senate	25	24
House	81	12

Effective: June 13, 2002

2SSB 6080
C 370 L 02

Updating and harmonizing fireworks and explosives laws.

By Senate Committee on Labor, Commerce & Financial Institutions (originally sponsored by Senator Prentice).

Senate Committee on Labor, Commerce & Financial Institutions

House Committee on Commerce & Labor

Background: A combination of federal, state, and local law governs the distribution, sale, and use of fireworks. State law distinguishes between "explosives" and "fireworks." Explosives are regulated by the Department of Labor and Industries, and fireworks are regulated by the Washington State Patrol, through the State Fire Marshal. The fireworks statute distinguishes between items

sold at retail to unlicensed consumers at prescribed times, and specialty items designed for public display sold only to licensed individuals.

Both the fireworks and explosives statutes refer to various federal standards and regulatory definitions. Some terms in state law are no longer consistent with counterpart federal definitions.

Summary: Explosives. Several definitions in the explosives statute are amended to conform to current federal definitions. A clarification is made to exempt certain military operations, and exemptions are added for seizure of explosives and fireworks by local law enforcement.

Fireworks. Definitions: Some terms and numerous definitions in the state fireworks law are amended. Other terms and definitions are added. These amendments and additions make state terms and definitions conform to federal definitions.

Sales and Use: The July sales and use period is changed to prohibit sales and use after July 5. In addition to July sales and use dates, the sale and use of consumer fireworks is authorized from December 27 through December 31 annually. A city or county may limit or prohibit the sale, purchase, possession, or use of consumer fireworks during this period in 2002 by local ordinance enacted within 60 days of the effective date of the act. A local ordinance to prohibit the sale, purchase, possession, and use after December 2002, shall be effective no sooner than one year from the date of adoption. A prohibition against the sale of any fireworks to a person under the age of 16 is added.

Licenses and Permits: Clarification is made that licenses are issued by the Washington State Patrol, through the Director of Fire Protection, and that permits are issued by cities and counties. By local ordinance, a city or county may charge a separate fee for a retail sales permit and public fireworks display permit. A city or county may charge up to \$100 for a retail sales permit and up to \$5,000 for a public display permit. The local permitting authority is changed from the local fire official to the city or county.

Transportation: A licensee is authorized to transport fireworks without a city or county permit.

Storage: The storage of fireworks is redefined as "temporary storage" or "permanent storage." The prohibition against unlicensed storage and the requirement for obtaining a local storage permit are amended to apply to only permanent storage. No permit is required for storage of consumer fireworks during authorized periods of sales and use. Consumer fireworks remaining after the July and December selling period must be returned to a licensed wholesaler or to a permanent storage facility. The issuing agency for permanent storage is changed from the local fire department to a city or county. Upon application for a permanent storage permit, a city or county must investigate whether the proposed storage

meets local zoning, building, and fire codes. The storage of fireworks seized during enforcement by the Washington State Patrol, through the Director of Fire Protection, are exempt from storage permit requirements.

Seizure: Proceeds from the sale of illegal fireworks are used as follows. After seizure and storage costs are offset (as permitted under current law), remaining proceeds are deposited in the Fire Services Trust Fund. At least 50 percent is used for a public education campaign emphasizing safe and responsible use of fireworks (instead of 75 percent as required under current law). The remainder is used for enforcement efforts.

Penalties: A civil penalty is established for certain prohibited acts, such as the illegal possession, discharge, sale, or transportation of fireworks. Related procedural requirements also are established. Civil penalties are limited to \$1,000 per day, per violation.

Civil penalties imposed under the state fireworks law are paid to the State Treasurer and are credited to the Fire Services Trust Fund. At least 50 percent is used for a public education campaign emphasizing safe and responsible use of fireworks. The remainder is used for enforcement efforts.

Enforcement: The Attorney General, county prosecutors, and city attorneys are authorized to bring civil actions to enforce the state fireworks law and to collect penalties imposed under the law. Civil actions to enforce the law may be brought in the superior court of Thurston County or the county in which the violation occurred. Civil actions to collect penalties may be brought in the superior court of Thurston County or the county in which the violator does business.

Votes on Final Passage:

Senate	46	0	
House	92	0	(House amended)
Senate	44	0	(Senate concurred)

Effective: June 13, 2002

E2SSB 6140
PARTIAL VETO
C 56 L 02

Authorizing creation of regional transportation investment districts.

By Senate Committee on Transportation (originally sponsored by Senators McDonald, Prentice, Horn, Eide, Johnson, Finkbeiner, Patterson, Shin, Benton, Kastama, Costa, McAuliffe, Rossi, Long, Roach, Zarelli and Oke).

Senate Committee on Transportation

Background: The Governor and the Legislature created the Blue Ribbon Commission on Transportation (BRCT) in 1998 to do the following: assess the local, regional and state transportation systems; ensure that current and future money is spent wisely; make the system more

accountable and predictable; and prepare a 20 year plan for funding and investing in the transportation system. In its final report, the BRCT issued 18 recommendations. Recommendation 6 states that regions be provided with the ability to plan, select, fund, and implement (or contract for the implementation of) projects identified to meet the region's transportation and land use goals.

Summary: A county with a population over 1.5 million and adjoining counties with a population over 500,000 may create Regional Transportation Investment Districts (RTID). The regional projects to be funded with the regionally raised revenues must be a capital improvement or improvements to a highway of statewide significance that adds a lane or new lanes to an existing state or federal highway including associated approaches, HOV lanes, bus pullouts, flyover ramps, park and ride lots, vans for van pools, buses, and signalization, ramp metering and other transportation system management improvements. Local arterials, new highways and other highways are eligible for revenue if certain conditions are met.

Creation of RTID. To create an RTID, the members of the legislative authorities participating in planning the RTID must form a planning committee. The Secretary of Transportation or the appropriate Washington State Department of Transportation regional administrator serves on the committee as a nonvoting member.

The planning committee selects the projects, recommends which revenue choices it will use and sends the plan to the county legislative authorities for their approval. The planning committee is governed by a 60 percent weighted majority vote. The planning committee may dissolve itself at any time by a two-thirds weighted majority vote of the total membership of the committee.

The county legislative authority can either approve or disapprove the plan; it cannot alter the plan. If it approves the plan, it must put it on the ballot. If it disapproves the plan, the planning committee may revamp the plan for resubmission to the legislative authority. If approved by a majority of voters in the affected counties, the district is created and the members of the planning committee automatically become members of the governing board of the district. No ballot measure may be presented to the voters more than three times.

Revenue Options. The planning committee may select from the following list of revenue options to fund the projects: a vehicle license fee of up to \$100 per year; a commercial parking tax on gross proceeds or vehicle stalls; sales and use tax of up to 0.5 percent; and tolls on new improvements. The RTID may vary the amount of the vehicle license fee based on the age of the vehicle. In addition, the following local government funding sources may be used for these projects: a local option motor vehicle excise tax; and an employer excise tax of up to \$2 per employee per month. The local option taxes

may only be imposed to the extent those taxes are not already imposed by the county.

Regional Transportation Model Grants. Areas of the state outside of King, Snohomish and Pierce counties are eligible for grants from the state of no more than \$200,000 to study and develop regional transportation models.

Joint Ballot with RTA. The participating counties may choose to impose any remaining high capacity transportation taxes that have not otherwise been used by a regional transit authority. The participating counties may submit a common ballot measure to the voters that creates the district, approves the regional transportation investment plan, implements the taxes, and implements any remaining high capacity transportation taxes within the boundaries of the RTID.

Highways of Statewide Significance. The Transportation Commission or the Legislature designates state highways of statewide significance. State Route 509 is designated as a state highway of statewide significance.

Highways of Regional Significance. State Route 9, State Route 524, and the Cross-Base Highway are made highways of regional significance and are eligible for up to 10 percent of the regional revenue.

This act is null and void if a transportation revenue act containing new or additional revenue does not become law by December 31, 2002.

Votes on Final Passage:

Senate	31	14	
House	64	33	(House amended)
Senate	34	14	(Senate concurred)

Effective: June 13, 2002

Partial Veto Summary: The section that prevents the regional transportation bill from becoming law unless a statewide transportation revenue act becomes law is vetoed.

VETO MESSAGE ON SB 6140-S2

March 21, 2002

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 504, Engrossed Second Substitute Senate Bill No. 6140 entitled:

"AN ACT Relating to the creation of regional transportation investment districts;"

Engrossed Second Substitute Senate Bill No. 6140 allows voters of the three central Puget Sound counties to adopt a transportation funding and investment plan for their region. Section 504 would have rendered the entire bill - and perhaps even a majority vote in the region - null and void if a statewide transportation act containing new revenue does not become law by December 31, 2002. A statewide transportation act has been referred to the ballot for November 2002.

Section 504 of the bill creates legal issues that could thwart any transportation solution that the voters may approve. By vetoing this section, the three central Puget Sound counties will retain a dynamic new tool to begin to address their most pressing transportation needs, regardless of the outcome of the state-

wide referendum. The three central Puget Sound counties are major contributors to our state's economy, yet this same area suffers from some of the worst traffic congestion in the country. It should not be restrained from moving forward on its own if the rest of the state is unwilling.


Make no mistake, however: I pledge to work vigorously for the passage of the statewide transportation referendum. Even if the central Puget Sound region employs all of the new revenue authority provided by this bill, it is only a part of the solution. Statewide revenues are still essential for these three counties, as well as the rest of the state.

In addition, I will continue to work with the Legislature to expand the regional transportation funding authority, created by this bill, to other regions of our state.

For these reasons, I have vetoed section 504 of Engrossed Second Substitute Senate Bill No. 6140.

With the exception of section 504, Engrossed Second Substitute Senate Bill No. 6140 is approved.

Respectfully submitted,



Gary Locke
Governor

ESB 6232

C 133 L 02

Revising crimes relating to possession of ammonia.

By Senators Rasmussen, Long, Shin, Kastama, Franklin, Winsley, Spanel, Swecker, Regala, McAuliffe and T. Sheldon.

Senate Committee on Judiciary
House Committee on Judiciary

Background: During the 2000 legislative session, the crimes of theft of anhydrous ammonia and unlawful storage of anhydrous ammonia were created. Any damages arising out of the unlawful possession, storage, or tampering with anhydrous ammonia equipment were designated as the sole responsibility of the unlawful actor.

"Anhydrous ammonia" is ammonia that does not contain any water. If it is exposed to the air, as it often is when it is stored improperly, its chemical composition changes and it is no longer anhydrous. Anhydrous ammonia also undergoes chemical modification during the manufacture of methamphetamine.

Summary: All references to anhydrous ammonia in the chapter relating to the theft and unlawful storage of anhydrous ammonia are changed to "pressurized ammonia gas" and "pressurized gas solution". References to the crimes in the sentencing grid reflect the language that changed. Solid waste haulers who unknowingly possess or transport pressurized ammonia gas in the normal course of business are not guilty of the offense.

Votes on Final Passage:

Senate 48 0
 House 95 0 (House amended)
 Senate 45 0 (Senate concurred)

Effective: March 26, 2002

SSB 6233

C 134 L 02

Clarifying references to ephedrine, pseudoephedrine, and ammonia.

By Senate Committee on Judiciary (originally sponsored by Senators Rasmussen, Long, Shin, Kastama, Franklin, Winsley, Spanel, Swecker, Regala and McAuliffe).

Senate Committee on Judiciary
 House Committee on Judiciary

Background: It is unlawful to possess ephedrine, pseudoephedrine, or anhydrous ammonia with the intent to manufacture methamphetamine. In *State v. Halsten*, the Court of Appeals held that the statute does not specifically make it unlawful to possess the salts or isomers of these substances with the intent to manufacture methamphetamine. Most states and the federal statutes specifically include salts or isomers.

"Anhydrous ammonia" is ammonia that does not contain any water. If it is exposed to the air, as it often is when it is stored improperly, its chemical composition changes and it is no longer anhydrous. Anhydrous ammonia also undergoes chemical modification during the manufacture of methamphetamine.

Summary: It is unlawful to possess ephedrine or any of its salts or isomers, or salts of isomers, pseudoephedrine or any of its salts or isomers, or salts of isomers, or pressurized ammonia gas or gas solution with the intent to manufacture methamphetamine. The language change applies to the sentence enhancement and Department of Social and Health Services notification procedures when a special allegation regarding the presence of children is proved. References in the sentencing grid are also corrected.

Votes on Final Passage:

Senate 46 0
 House 92 0 (House amended)
 Senate 45 0 (Senate concurred)

Effective: March 26, 2002

SSB 6234

C 344 L 02

Requiring a date certain for the payment of insurance premiums.

By Senate Committee on Labor, Commerce & Financial Institutions (originally sponsored by Senators Winsley, Prentice, Regala, Hochstatter, Honeyford, Benton, Rasmussen, Gardner, Deccio, Roach, Morton, Franklin and Hewitt).

Senate Committee on Labor, Commerce & Financial Institutions

House Committee on Financial Institutions & Insurance
Background: Currently, there is no statutory requirement that insurance premiums be due on a date certain, creating some confusion among some consumers as to the ultimate due date. Consumers may also not be aware of the existence or length of a "grace period," during which the premium will still be accepted as timely by the insurer, saving the policyholder from late charges or cancellation for failure to pay.

Consumers of insurance may encounter a variety of approaches among insurers regarding due dates, notice of due dates, and grace periods for payment of premiums.

Summary: For private passenger auto insurance, contracts of insurance are required to provide a date certain on which the premium is due, and a grace period of a minimum of five days.

The Office of the Insurance Commissioner adopts rules. Insurers are allowed 90 days in which to comply before disciplinary action may be taken by the Insurance Commissioner.

Votes on Final Passage:

Senate 46 0
 House 93 0 (House amended)
 Senate 41 0 (Senate concurred)

Effective: June 13, 2002

SSB 6240

C 16 L 02

Clarifying the procedure for providing offenders with a certificate of discharge.

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Franklin, Shin, Kline, Regala, Prentice and Costa).

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

Background: Concerns have been raised that offenders who have completed all the requirements of their sentence and parole may not be aware that they have had the right to vote restored. Currently, the Department of

Corrections (DOC) sends notice to the sentencing court when an offender has completed his or her sentence and the court provides the offender with a certificate of discharge restoring their right to vote. In some cases, the Indeterminate Sentence Review Board (ISRB) may independently issue a certificate of discharge to the offender upon completion of the offender's sentence.

This bill is intended to help give notice to offenders that the right to vote has been restored.

Summary: When a sentencing court receives notice from DOC that an offender has completed all requirements including all legal financial obligations of his or her sentence, the court issues a certificate of discharge to the offender either in person or by mail. DOC only sends notice to the sentencing court if the offender is under the supervision of the department. The court also sends a copy of the certification to the county's auditor and to DOC. When the ISRB determines that an offender has completed all the requirements of his or her sentence, it also delivers a certification to the offender and sends a copy to the county auditor and DOC. DOC maintains a data base of the certificates of discharge.

Votes on Final Passage:

Senate 48 0
House 73 22

Effective: June 13, 2002

SSB 6241

C 17 L 02

Excluding agriculturally cultivated Christmas trees from chapter 76.09 RCW.

By Senate Committee on Agriculture & International Trade (originally sponsored by Senators Rasmussen, T. Sheldon, Swecker, Hargrove and Snyder).

Senate Committee on Agriculture & International Trade
House Committee on Agriculture & Ecology

Background: Christmas trees can be grown on agricultural land or on forest land. Both the Growth Management Act and the property tax statutes differentiate whether land upon which Christmas trees are grown is classified as agricultural land or forest land based on whether the Christmas trees are grown by agricultural methods.

"Agricultural methods" is defined as cultivation of trees that are grown on land prepared by intensive cultivation and tilling, such as irrigating, plowing, or turning over the soil, and on which all unwanted plant growth is controlled continuously for the exclusive purpose of raising trees such as Christmas trees and short-rotation hardwoods.

Currently, Christmas trees are included under the Forest Practices Act and associated rules. For example, the harvest and shearing of Christmas trees are a Class I

forest practice and do not require notification to the Department of Natural Resources. Aerial pesticide applications are considered as a Class IV forest practice and require approval by the Department of Natural Resources. Aerial applications must also comply with label restrictions and rules administered by the Department of Agriculture.

Summary: Christmas trees grown by agricultural methods are exempt from the Forest Practices Act. Christmas trees grown by other than agricultural methods remain subject to the Forest Practices Act.

Votes on Final Passage:

Senate 48 0
House 95 1

Effective: June 13, 2002

SB 6242

C 18 L 02

Modifying the definition of nonprobate asset.

By Senators Johnson and Kline.

Senate Committee on Judiciary
House Committee on Judiciary

Background: Current Washington law provides, upon divorce, for the automatic revocation of the designation of a spouse as a beneficiary of various nonprobate assets like life insurance, pension plans, and payable on death bank accounts. A recent U.S. Supreme Court decision, *Egelhoff v. Egelhoff*, found that the Washington statute cannot be applied to pension plans governed by the Employment Retirement Income Security Act (ERISA) because that federal law preempts the state law. It is the hope of proponents of this legislation that the express reference to controlling federal law contained in this bill will cause practitioners to not rely upon the Washington statute where it has been preempted by federal law.

Summary: "Nonprobate asset" means those rights and interests of a person having beneficial ownership of an asset that pass on the person's death under a written instrument other than the decedent's will. The written instruments include a payable-on-death provision of a life insurance policy, employee benefit plan, annuity or similar contract, or individual retirement account unless provided otherwise by controlling federal law.

Votes on Final Passage:

Senate 47 0
House 96 0

Effective: June 13, 2002

SSB 6248

C 264 L 02

Funding bicycle and pedestrian safety.

By Senate Committee on Transportation (originally sponsored by Senators Jacobsen, Kohl-Welles, Kline and Brown).

Senate Committee on Transportation
House Committee on Transportation

Background: Special motor vehicle license plates are those plates containing a unique design recognizing a particular organization or membership in a particular group. Some of these special plates are used to raise money for particular causes and others are used to honor residents of the state for particular activities.

The bicycle and pedestrian safety account is used to support bicycle and pedestrian education and safety programs.

Summary: Cooper Jones Act license plate emblems are created to fund the bicycle and pedestrian safety account. There is no renewal fee. The funds from the emblem sales are collected and used by the Department of Licensing (DOL) until all expenses of designing and producing the emblems are recovered. Thereafter, DOL may collect up to \$5 of the fee for administrative and collection expenses, and the remaining proceeds are credited to the bicycle and pedestrian safety account.

Votes on Final Passage:

Senate	48	0	
House	95	0	(House amended)
Senate	41	1	(Senate concurred)

Effective: June 13, 2002

SSB 6254

C 322 L 02

Creating the fruit and vegetable inspection account.

By Senate Committee on Agriculture & International Trade (originally sponsored by Senators Rasmussen, Swecker, Shin and Spanel; by request of Department of Agriculture).

Senate Committee on Agriculture & International Trade
House Committee on Agriculture & Ecology

Background: There is a system for the inspection of specified unprocessed fruits and vegetables to determine whether they meet uniform grades and standards used in domestic and international sales.

There are currently three fruit and vegetable inspection districts that are created for specified geographic areas in the state. Fees collected by each district are currently to be deposited into a separate fund in a bank located in the district. Each of the three districts are

supervised by the commodity inspection program within the Department of Agriculture.

The department also maintains a fruit and vegetable inspection trust account. This account is authorized to be used to: (1) pay expenses involved with inspection agreements with the United States Department of Agriculture; (2) assist other fruit and vegetable inspection districts in temporary financial distress which are to be repaid; and (3) to pay necessary administrative costs of the commodity inspection division of the Department of Agriculture. The source of the funds in this trust account is the local fruit and vegetable inspection funds.

Interest earnings that accrue on balances of specified accounts in the custody of the State Treasurer, such as the agricultural local fund, are to be distributed to those accounts.

Summary: The fruit and vegetable inspection account is created in the custody of the State Treasurer. All fees collected by fruit and vegetable inspection districts must be deposited in the account. An account is maintained for each district. The account may be used solely for implementation and enforcement of the fruit and vegetable inspection law or other expenditures authorized by statute or session law. The account is subject to state allotment procedures but an appropriation is not required. Formulas are set to temporarily reduce fees based on fund balances as three districts are being consolidated into two.

The fruit and vegetable inspection trust account is repealed. Authority for separate bank accounts for each district is also repealed.

Votes on Final Passage:

Senate	43	3	
House	93	0	(House amended)
Senate	41	1	(Senate concurred)

Effective: July 1, 2002

SSB 6264

C 147 L 02

Allowing a chiropractor to be a licensed official at a boxing, kickboxing, or martial arts event.

By Senate Committee on Labor, Commerce & Financial Institutions (originally sponsored by Senators Prentice and Kline).

Senate Committee on Labor, Commerce & Financial
Institutions

House Committee on Commerce & Labor

Background: A professional boxing, kickboxing or martial arts event may not be held unless a licensed event physician is present throughout the event. Event physicians must examine boxing, kickboxing, and martial arts contestants within 24 hours before an event, and they have the authority to stop an event if they believe it will

SB 6266

be dangerous for a contestant to continue. In addition, event physicians attend to the medical needs of contestants during an event. The promoter of the event pays the event physician's fees.

Currently, chiropractors are allowed to treat contestants during an event at the contestants' expense.

Summary: A chiropractor may be included as a licensed official at a boxing, kickboxing or martial arts event. Chiropractors for any boxing, kickboxing or martial arts event must be licensed by the Department of Licensing. Promoters must pay chiropractors who are event officials.

Votes on Final Passage:

Senate	43	3	
House	87	6	(House amended)
Senate	39	5	(Senate concurred)

Effective: January 1, 2003

SB 6266

C 265 L 02

Updating creditor/debtor personal property exemptions.

By Senators Johnson and Kline.

Senate Committee on Judiciary
House Committee on Judiciary

Background: Under current law if a creditor seeks to obtain payment for monies owed by a debtor to the creditor, the personal property of the debtor is subject to execution, attachment, and garnishment. However, as a matter of public policy, state statutes provide that certain property (subject to dollar limitations) is exempt from legal process.

The Washington State Bar Association (WSBA) is recommending that certain exemptions be increased, or new exemptions be created, to preserve to debtors and their families a minimum amount of financial assets to assist with their survival. The WSBA is of the belief that increasing the state exemptions will lessen the pressure on debtors to file for bankruptcy in order to take advantage of the federal Bankruptcy Code.

Summary: The current personal property exemptions from legal process are expanded as follows:

- (1) a community household goods exemption for spouses is established in the amount of \$5,400 (currently \$2,700 for an individual);
- (2) the exemption for "other personal property" is increased to \$2,000 (currently \$1,000), including not more than \$200 in cash and not more than \$200 in accounts or securities;
- (3) the exemption for motor vehicles is expanded to allow spouses to retain two vehicles worth a total of \$5,000 (currently two vehicles not to exceed \$2,500 for an individual);

- (4) an exemption is created for the right to or proceeds of payments, not to exceed \$16,150, for personal bodily injury of the debtor, not including pain and suffering and actual pecuniary loss;
- (5) an exemption is created for payments for loss of future earnings of the debtor, in an amount not to exceed that which is reasonably necessary for the support of the debtor and dependents; and
- (6) exemptions are created for child support payments paid or owed to the debtor and professionally prescribed health aids for the debtor and dependents.

The exemptions do not apply to a judgment for restitution for a victim of a crime or collection actions taken by a child support agency, and the state may seek reimbursement for Medicaid payments from personal injury payments.

If a person claims an exemption from garnishment, he or she bears the burden of proving the exemption by providing sufficient documentation.

Votes on Final Passage:

Senate	48	1
House	93	0

Effective: June 13, 2002

SSB 6267

C 345 L 02

Revising the principal and income act.

By Senate Committee on Judiciary (originally sponsored by Senators Johnson and Kline).

Senate Committee on Judiciary
House Committee on Judiciary

Background: Trusts involve a trustee who has an utmost duty to administer a trust and manage trust property for the benefit of another person. In administering a trust, trustees have several responsibilities including the duty to make trust property productive and the duty of loyalty and impartiality. The duty of impartiality also includes the duty to allocate trust receipts equally between beneficiaries. The Uniform Principal and Income Act involves a trustee's obligation to divide trust receipts in a fair and reasonable manner among various trust beneficiaries.

Under current law, investment advisors have a duty to generate actual income for income beneficiaries. It has been reported that trustees may be compelled to invest in fixed income assets, rather than equities, in order to produce sufficient income for current beneficiaries. However, during recent market conditions, investment portfolios which have included a greater percentage of equity investments compared to fixed income assets have typically produced greater rates of return even though they may have paid smaller dividends. Concern exists that trustees' obligation to pro-

duce income may not be in the best interests of all trust beneficiaries since investments which produce income may not result in the maximum overall growth of the trust fund.

The Washington State Bar Association recommends modernizing the Washington Revised Uniform Principal and Income Act of 1971 to incorporate commonly used methods of transferring property, establish new rules, and change outdated legal principles.

Summary: In general terms, the Washington Principal and Income Act 2002 reflects overall modernization and changes to the 1971 act in four sections.

Fiduciary Duties. In allocating trust receipts, disbursements, and other matters within the scope of the 2002 act, a fiduciary should not favor one or more beneficiaries.

Fiduciary's Power to Adjust. If a personal representative invests and manages assets prudently and is unable to fulfill obligations for all beneficiaries and administer the trust, a personal representative may select investments which may not necessarily result in the production of the highest amount of income.

Judicial Control of Discretionary Powers. If a fiduciary's decision regarding a discretionary power is called into question, a court cannot find that a fiduciary abused his or her discretion merely because a judge would have exercised discretion differently. In remedying a fiduciary's abuse of discretion, a court may require the fiduciary to distribute or withhold an amount from the trust to restore a beneficiary to an appropriate position. A court can also require a fiduciary to use personal funds if a beneficiary establishes that the fiduciary did not exercise discretion in good faith and with honest judgment. In a claim or action relating to the fiduciary's discretionary powers, a fiduciary must be reimbursed for liabilities and advanced all costs, including unlimited attorneys' fees and costs of defense unless the beneficiary establishes that the fiduciary did not exercise his or her discretion in good faith and with honest judgment. Unless a fiduciary abuses his or her discretion, a fiduciary has discretionary power over unitrusts.

Power to Convert to Unitrust. A trustee, parties with an interest in the trust, or court may authorize the conversion of a trust to a unitrust. Once the trust is converted to a unitrust, the income amount to the beneficiary is equal to 4 percent of the net fair market value of the trust's assets averaged over the lesser of the three preceding years or the period during which the trust has been in existence.

Votes on Final Passage:

Senate	47	0
House	93	0

Effective: June 13, 2002

SB 6272

C 58 L 02

Authorizing contracts for provision of basic medical care to sexually violent predators.

By Senators Long, Hargrove and Costa; by request of Department of Social and Health Services.

Senate Committee on Human Services & Corrections
House Committee on Judiciary

Background: The Department of Corrections (DOC) is responsible for providing health care services to inmates. Over ten years ago, DOC indemnified contracted health care service providers because many of them were unable to obtain liability insurance. Insurance carriers either did not offer insurance for health care providers treating inmates or the cost was prohibitive.

Summary: The Department of Social and Health Services (DSHS) is authorized to contract for health care services being provided to sexually violent predators in its care. DSHS is authorized to indemnify these health care providers if they are unable through reasonable efforts to obtain professional liability insurance. In the event that a claim is made against such a provider, the claim is treated as if the provider was a state employee. This means that the Office of the Attorney General provides legal representation. Any judgment awarded is paid from the state liability account. As with state employees, the health care provider being indemnified under this law has to be performing acts which are within the scope of their official duties and in good faith.

Votes on Final Passage:

Senate	48	0
House	79	14

Effective: March 21, 2002

SSB 6282

C 197 L 02

Allowing private motorcycle skills courses.

By Senate Committee on Transportation (originally sponsored by Senators Horn, Haugen, B. Sheldon, Costa, Morton, Honeyford, Hale, Stevens, Finkbeiner and Oke).

Senate Committee on Transportation
House Committee on Transportation

Background: In 1982, legislation passed requiring the Department of Licensing to create a voluntary motorcycle operator training and education program to provide public awareness of motorcycle safety and to provide classroom and on-cycle training.

The department may waive all or a portion of the motorcycle endorsement examination for people who satisfactorily complete the motorcycle operator training and education program.

Summary: The Department of Licensing may enter into agreements to review and certify that a private motorcycle skills education course meets educational standards equivalent to those required of courses conducted under the motorcycle skills education program. The department may conduct periodic audits to ensure that the educational standards meet those for courses conducted under the motorcycle skills education program at the cost of the private party seeking certification.

The Department of Licensing may waive all or part of the motorcycle endorsement examination for persons who satisfactorily complete a private motorcycle skills education course that has been certified by the department.

Only Washington State residents and military personnel stationed in Washington can participate in the motorcycle skills education course provided by the Department of Licensing.

Persons taking the motorcycle safety education class offered by the Department of Licensing must pay no more than \$100 and persons under the age of 18 must pay no more than \$50.

Votes on Final Passage:

Senate	45	0
House	93	0

Effective: June 13, 2002

SB 6283
C 106 L 02

Changing the monetary threshold for competitive bidding requirements for public hospital districts.

By Senators Gardner, Swecker, T. Sheldon, Haugen and Rasmussen.

Senate Committee on State & Local Government
House Committee on Local Government & Housing

Background: All materials purchased and work ordered for a public hospital district, the estimated cost of which is in excess of \$5,000, must be done by contract. Before awarding a contract for such work, the public hospital district commission must publish notice, at least 13 days before the last day bids will be received, inviting sealed proposals for the work. The commission must canvass the bids and may award the contract to the lowest responsible bidder.

Alternatively, a public hospital district may award contracts where the materials purchased and work ordered are \$200,000 or less using the small works roster process. The small works roster process allows state agencies or authorized local governments to maintain a small works roster consisting of all responsible contractors who have requested to be on the list. Before awarding a contract under this process, the agency or authorized government must solicit a minimum of five quotations from contrac-

tors on the small works roster capable of performing the needed work.

For public works projects where the materials purchased and work ordered are \$35,000 or less, a state agency or authorized local government (public hospital district) may use the limited public works process. The limited public works process requires solicitation of at least three quotations from contractors on the small works roster before a contract can be awarded.

Summary: The estimated amount of the materials purchased and work ordered required to trigger competitive bidding requirements is increased to \$50,000.

Votes on Final Passage:

Senate	42	5
House	93	0

Effective: June 13, 2002

SSB 6286
C 174 L 02

Revising provisions relating to the time permitted for review by the indeterminate sentence review board of sex offenders who are sentenced to short sentences under RCW 9.94A.712.

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Long and Hargrove).

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

Background: Under 3ESSB 6151, enacted in 2001, sex offenders who commit a first "two-strikes" offense and offenders who have a prior conviction for a two-strikes offense and commit a new sex offense receive a "determinate plus" sentence upon conviction. The determinate plus sentence consists of a minimum term equal to the normal sentence under the Sentencing Reform Act PLUS a maximum term equal to the statutory maximum term of confinement. The Indeterminate Sentence Review Board (ISRB) must review offenders sentenced to a determinate plus sentence not later than 90 days before the end of the offender's minimum term of confinement.

Following passage of the legislation, concerns were raised that a small number of offenders, primarily convicted of assault in the second degree with sexual motivation, are sentenced to time served or to a sentence that has less than 90 days remaining at the time of sentencing and in this situation, the ISRB cannot meet the statutory requirement to review the offender not later than 90 days prior to the end of the offender's minimum term.

Summary: When an offender is sentenced to a determinate plus sentence and at the time of sentencing the offender's minimum term has expired or will expire within 120 days, the Department of Corrections (DOC) conducts an examination of sexual dangerousness within 90 days of the offender's arrival at DOC. The ISRB

conducts the required hearing to determine if the person is more likely than not to commit a new sex offense after the examination by the department, but within 120 days after the offender's arrival at DOC.

Votes on Final Passage:

Senate 49 0
 House 96 0 (House amended)
 Senate 45 0 (Senate concurred)

Effective: March 27, 2002

SB 6287
 C 19 L 02

Clarifying the status of persons who commit criminal offenses while civilly detained or committed under chapter 71.09 RCW.

By Senators Long and Hargrove.

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

Background: The current law does not define the status upon release from criminal confinement of a sexually violent predator who commits a crime and serves jail or prison time.

Summary: A person civilly detained or committed under Chapter 71.09 RCW who is incarcerated for a crime remains under the jurisdiction of the Department of Social and Health Services (DSHS) following either completion of his or her criminal sentence or release from confinement in a jail or prison and shall be returned to DSHS custody. This provision does not affect the person's right to petition for review of his or her commitment status at any time.

This provision does not apply to persons sentenced to life without possibility of release while civilly detained or committed under Chapter 71.09 RCW.

Votes on Final Passage:

Senate 46 0
 House 96 0

Effective: June 13, 2002

SB 6292
 C 136 L 02

Authorizing lay judicial officers.

By Senators Kline and Johnson.

Senate Committee on Judiciary
 House Committee on Judiciary

Background: A candidate for district court judge, in addition to residency requirements, must meet one of three criteria: (1) be admitted to the practice of law in this state, or (2) be a previously elected judge of a district

or municipal court, or (3) for candidates residing in districts with a population less than 5,000 persons, the candidate must have passed a qualifying examination for a district court judge. To be appointed or elected as a municipal judge, in addition to citizenship and residency requirements, a person must be admitted to the practice of law in this state or reside in a municipality of less than 5,000 population.

The Municipal and District Court Judges Association is recommending that all candidates for district and municipal court judge should be attorneys admitted to the practice of law in this state, unless the candidate resides in a district with less than 5,000 population and passes a qualifying examination.

Summary: A candidate for district or municipal court judge must be an attorney admitted to the practice of law in the state of Washington unless the candidate resides in a district or municipality with a population less than 5,000. In districts or cities with less than 5,000 population, a candidate is eligible to run for district or municipal court judge if the person has passed by January 1, 2003, the qualifying examination for a lay judicial officer.

Statutory provisions allowing non-attorney but previously elected judges of district and municipal court to be a district court judge are deleted.

Votes on Final Passage:

Senate 27 19
 House 73 22

Effective: June 13, 2002

SB 6293
 C 59 L 02

Hearing certain criminal actions by video or other electronic means.

By Senators Kline and Johnson.

Senate Committee on Judiciary
 House Committee on Judiciary

Background: In criminal prosecutions in district courts, a case must generally be brought where the alleged violation occurred. Certain exceptions exist to this rule, including that district court cases may be heard by video or electronic means if the defendant has violated a local ordinance and is located outside of the court's geographic jurisdiction or boundaries. District courts have jurisdiction over local criminal ordinances and over misdemeanor and gross misdemeanor violations of state law.

The District and Municipal Court Judges' Association recommends that the district courts' authority to hear cases by video or electronic means be extended to cases involving defendants who have violated a state criminal statute. Concern exists that district courts may be limited to hearing only those cases involving municipal

SB 6296

ordinance violations by video conferencing methods. It has been reported that broader authority to conduct electronic or video hearings would reduce costs in transporting detained defendants charged with misdemeanor offenses to courthouses within courts' geographic jurisdiction or boundaries and facilitate hearings during instances of natural disaster or civil disorder.

Summary: Video or electronic hearings for criminal statute violations may be done in district courts if the defendant is located outside the courts' geographic jurisdiction or boundaries.

Votes on Final Passage:

Senate	47	0
House	93	0

Effective: June 13, 2002

SB 6296

C 4 L 02

Revising timelines for redistricting plans.

By Senators Snyder, West, Horn, Carlson and T. Sheldon; by request of Attorney General and Redistricting Commission.

Background: State law currently contains two provisions establishing a deadline for approval and submission of a redistricting plan by the Redistricting Commission appointed after each decennial census. The state Constitution establishes a deadline of January 1 of each year ending in two. The implementing legislation provided for the same deadline until 1995 when legislation changed the statutory deadline to December 15 of each year ending in one. After submission of a plan in accordance with the deadline, the Legislature has 30 days in the next session to make limited changes in the plan, with a two-thirds vote. Both the Constitution and the statute give the task of redrawing legislative and congressional boundaries to the state Supreme Court if the commission fails to meet the deadline. The court must adopt a plan by March 1.

The Redistricting Commission appointed in 2001 approved a legislative map on December 16, 2001 and a congressional map on January 1, 2002.

Summary: The statutory deadline of December 15 of each year ending in one is changed to January 1 of each year ending in two, making the statutory and constitutional deadlines identical. The change is made retroactive and thus applies to the redistricting plan adopted and submitted by the 2001 Redistricting Commission.

Votes on Final Passage:

Senate	48	1
House	93	3

Effective: January 22, 2002

SSB 6301

C 266 L 02

Allowing the issuance of a group fishing permit to a facility.

By Senate Committee on Natural Resources, Parks & Shorelines (originally sponsored by Senators Oke, Jacobsen, Spanel, Snyder, Hargrove and Rasmussen; by request of Department of Fish and Wildlife).

Senate Committee on Natural Resources, Parks & Shorelines

House Committee on Natural Resources

Background: Recreational fishing is legal without a fishing license for persons under the care of a state licensed or state-operated care facility that obtains a group fishing permit from the director.

Family members or caregivers of the persons in the state authorized care facility desire to fish in the group authorized activity without a license.

Summary: The director is given the authority to issue a group fishing permit to a state-operated or state-licensed care facility. Nonprofit facilities are now eligible for group fishing permits. The definition of persons who may participate under a group fishing permit is expanded to include handicapped and seriously or terminally ill persons and persons who are dependent on the state because of emotional or physical disabilities.

Group fishing permits are restricted in use to open seasons.

The Fish and Wildlife Commission must adopt rules governing the issuance of group fishing permits.

Votes on Final Passage:

Senate	47	0	
House	96	0	(House amended)
Senate	45	0	(Senate concurred)

Effective: June 13, 2002

SSB 6313

C 20 L 02

Providing for the retrieval of derelict fishing gear.

By Senate Committee on Natural Resources, Parks & Shorelines (originally sponsored by Senator Oke).

Senate Committee on Natural Resources, Parks & Shorelines

House Committee on Natural Resources

Background: Derelict gear is the term used for fishing nets, traps, or lines that are lost or abandoned in state waters. Derelict gear can continue to catch fish and other marine organisms for long after it is lost. There is currently no incentive to report the loss of gear, and no common procedures for gear removal.

The Northwest Straits Commission received a federal grant to develop protocols for the safe removal of derelict gear, and to inventory and remove derelict gear in the northwest straits of Puget Sound. The Washington Department of Fish and Wildlife has indicated that a hydraulic project approval will be required for derelict gear removal.

Summary: The Washington Department of Fish and Wildlife, in partnership with the Department of Natural Resources, the Northwest Straits Commission, and other interested parties, must publish guidelines for the safe removal and disposal of derelict gear. No hydraulic project approval is required for gear removed according to the guidelines.

The Department of Fish and Wildlife must also create a database of known derelict gear. Commercial fishers are encouraged to report the loss of gear to the Department of Fish and Wildlife.

The Department of Fish and Wildlife must provide a report to the Legislature by January 1, 2003, on methods to reduce future losses of fishing gear.

Votes on Final Passage:

Senate	47	0
House	96	0

Effective: June 13, 2002

ESB 6316
C 247 L 02

Regulating electric personal assistive mobility devices.

By Senators Kastama, Horn, Prentice, Johnson, Eide, Finkbeiner, McCaslin, McDonald, Swecker, Jacobsen, Fairley, Oke, Costa, Thibaudeau, Morton and Benton.

Senate Committee on Transportation
House Committee on Transportation

Background: The Segway is an electronic mobility device that maintains balance through a technology called "dynamic stabilization." Dynamic stabilization uses gyroscopes and tilt sensors, software and circuit boards, and high-powered electric motors to maintain balance the same way a person balances.

The Segway consumer model travels at a maximum of 12.5 miles per hour and travels up to 17 miles on a single charge. The Segway carries a passenger of up to 250 pounds and it weighs about 80 pounds.

Summary: The Segway is defined as an electronic personal assistive mobility device (EPAMD). The EPAMD is a self-balancing two-wheeled device with an electric propulsion system, designed to transport one person. The maximum speed on a paved level surface, when ridden by an operator who weighs 170 pounds is less than 20 m.p.h.

An EPAMD is not a motor driven vehicle or a motorcycle. The operator of an EPAMD is not required to

have a driver's license and is not subject to vehicle lighting and other equipment requirements. The EPAMD is not required to have a certificate of ownership and is not subject to vehicle licensing requirements.

The EPAMD is allowed on bike paths and sidewalks. An EPAMD operator is considered to have all of the rights and duties of a pedestrian except that a person operating an EPAMD obeys all speed limits and yields the right-of-way to pedestrians and human powered devices at all times. An operator must also give an audible signal before overtaking and passing any pedestrian.

Municipalities and the Department of Transportation may prohibit the use of the EPAMD on public highways within its jurisdiction where the speed limit is greater than 25 m.p.h. Municipalities may also restrict the speed of an EPAMD in areas with congested pedestrian or non-motorized traffic. State agencies may also restrict the use of an EPAMD in specific areas.

Votes on Final Passage:

Senate	40	9	
House	91	2	(House amended)
Senate	37	7	(Senate concurred)

Effective: June 13, 2002

SB 6321
C 140 L 02

Allowing candidates to file electronically.

By Senators Gardner, McCaslin, Roach, T. Sheldon, Keiser, McAuliffe, Hale and Oke; by request of Secretary of State.

Senate Committee on State & Local Government
House Committee on State Government

Background: Candidates for office cannot electronically file declarations of candidacy.

Summary: Candidates for office are allowed to electronically file a declaration of candidacy. Submission of the electronic declaration of candidacy constitutes agreement that the information provided with the filing is true, that the candidate will support the Constitutions and laws of the United States and the state of Washington, and that the candidate agrees to electronic payment of the filing fee. The Secretary of State, as chief election officer, may adopt rules, in accordance with the Administrative Procedure Act, to facilitate electronic filing and establish which jurisdictions are eligible to accept electronic filing. The Secretary of State may take the necessary steps to implement this act on its effective date.

Votes on Final Passage:

Senate	48	0
House	93	0

Effective: June 13, 2002

SB 6324
C 21 L 02

Directing a statewide voter registration data base.

By Senators Gardner, Horn, T. Sheldon, Roach, McCaslin, Winsley and Hale; by request of Secretary of State.

Senate Committee on State & Local Government
House Committee on State Government

Background: Voter registration data bases are maintained at the county level. Some legislators have recognized that statewide voter registration systems are important tools for protecting the integrity of elections.

Summary: The Secretary of State must work with county auditors and voter registration experts to design and initiate the creation of a statewide voter registration data base. At a minimum, the voter registration data base must be designed to identify duplicate and suspected duplicate voters; screen against the Department of Corrections data base to aid in the cancellation of voter registration of felons; provide up-to-date signatures of voters for the purposes of initiative signature checking; provide for a comparison between the Department of Licensing change of address data base and the voter registration data base; provide online access to county auditors for real time duplicate checking and update capabilities; provide for cancellation of voter registration for persons who have moved to other states and surrendered their Washington drivers' licenses; and ensure that each county maintains legal control of the registration records for that county.

The Secretary of State must report its findings to the Legislature by February 1, 2003.

The act expires January 1, 2005.

Votes on Final Passage:

Senate 47 0
House 96 0

Effective: May 1, 2002

ESSB 6326
C 22 L 02

Filing reports with the insurance commissioner.

By Senate Committee on Labor, Commerce & Financial Institutions (originally sponsored by Senators Prentice and Winsley).

Senate Committee on Labor, Commerce & Financial Institutions

House Committee on Financial Institutions & Insurance

Background: Under current law, an insurer must file an annual report with the state Insurance Commissioner stating its loss and expense experiences as well as other specified data related to various types of property and

casualty insurance, including: medical malpractice; products liability; attorneys' malpractice; architects' and engineers' malpractice; municipal liability; and daycare center liability.

The annual report must contain specific types of data related to each category of insurance, including: premiums written and earned; net investment income; incurred claims; reserves for claims and losses; net underwriting gain or loss; net operation gain or loss; and actual incurred expenses.

An insurer must file its annual report with the commissioner not later than May 1 of each year. Failure to timely file the report can result in a fine of up to \$2,000.

Summary: An insurer is exempt from the statutory annual reporting requirement if it has neither data nor experience to report with respect to the covered categories of property and casualty insurance.

Votes on Final Passage:

Senate 48 0
House 96 0

Effective: June 13, 2002

SB 6328
C 23 L 02

Changing the definition of cherry harvest temporary labor camp.

By Senators Parlette, Gardner, Hale, Honeyford, Rasmussen and Oke.

Senate Committee on Labor, Commerce & Financial Institutions

House Committee on Commerce & Labor

Background: In 1999 the Departments of Health and Labor and Industries were authorized by the Legislature to develop joint rules that would establish standards for cherry harvest labor camps. This directive was based on a recognition that housing needs for this relatively short, labor intensive harvest are different than for crops that have longer harvest periods. It was also recognized that this harvest takes place entirely during warm weather. Standards for this type of housing are allowed to vary from the standards necessary for longer occupancies. However, the standards are required to be as effective as those adopted under the Washington Industrial Safety and Health Act.

Occupancy of cherry harvest camps built according to these standards is limited to 28 days in any one calendar year.

Summary: The 28 day per year occupancy limit for cherry harvest farm worker housing facilities is removed. These facilities may be occupied by cherry harvest workers for a period not to exceed one week prior to the commencement of and one week following the conclusion of the cherry harvest within the state.

Votes on Final Passage:

Senate 47 0
House 96 0

Effective: June 13, 2002

SSB 6329

C 24 L 02

Exempting certain hybrid vehicles from emission control inspection requirements.

By Senate Committee on Environment, Energy & Water (originally sponsored by Senators Regala, Honeyford, Fraser, Jacobsen and Winsley).

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

Background: Federal law requires vehicle emission testing in areas that violated carbon monoxide or ozone air quality standards. Testing is required in the urban portions of Clark, King, Pierce, Snohomish and Spokane counties. The Department of Ecology runs the motor vehicle emission inspection program and contracts with private entities to operate the vehicle inspection stations.

Certain motor vehicles are exempt from the emission testing requirement. Exempt vehicles include: vehicles more than 25 or less than five years old; vehicles powered by propane or compressed natural gas or electricity; motorcycles; farm vehicles; used vehicles sold by dealers; and collector cars.

A hybrid motor vehicle is one that uses propulsion units powered by both electricity and gas. It is suggested that certain hybrid vehicles should be exempt from emission testing.

Summary: Hybrid motor vehicles that obtain a rating by the U.S. Environmental Protection Agency of at least 50 miles per gallon during city driving are exempt from vehicle emission testing.

Votes on Final Passage:

Senate 47 0
House 96 0

Effective: June 13, 2002

SB 6338

C 346 L 02

Modifying the consumer loan act.

By Senators Keiser, Winsley, Gardner and Kohl-Welles.

Senate Committee on Labor, Commerce & Financial Institutions

House Committee on Financial Institutions & Insurance

Background: Consumer loan companies are regulated by the Department of Financial Institutions under the

Consumer Loan Act. Licensed companies are authorized to make loans at higher interest rates than other financial institutions or credit card issuers. They are authorized and regulated because the Legislature has recognized the need for lenders to serve the credit needs of borrowers who represent a higher than average credit risk. Consumer loan companies may charge up to 25 percent simple interest as well as certain prescribed loan origination fees.

In 2001, the Legislature amended the act to make licensing requirements more stringent, enhance the regulatory authority of the department, and create disclosure requirements. Under current law, a licensee must provide a written disclosure to each borrower within three business days after receiving the borrower's loan application. The disclosure statement must contain an itemized estimation and explanation of all fees and costs that the borrower is required to pay in connection with obtaining a loan from the licensee.

The act specifically references the disclosure requirements set forth in the various federal statutes and regulations pertinent to the regulation of consumer loan companies. Specifically referenced are the Truth in Lending Act (prescribing the disclosure requirements that must be met by lenders offering or extending consumer credit), Federal Reserve Board Regulation Z (prescribing the specific disclosure requirements for both open-end and installment credit transactions), and the Real Estate Settlement Procedures Act. Lenders that are in compliance with applicable federal laws and regulations regarding disclosure requirements are deemed to be in compliance with state law.

Summary: When making a loan that is not secured by a real property lien, a licensee must make disclosures in accordance with the Truth in Lending Act, Federal Reserve Board Regulation Z, and other applicable federal laws and regulations. The three-day disclosure requirement applies only to loans that are secured by a real property lien.

Additional disclosure requirements are prescribed for all loans made by the licensee that are secured by a real property lien. First, a licensee must disclose whether or not the loan contains a prepayment penalty. Second, a licensee must provide to the borrower an estimate of the loan's annual percentage rate which is calculated in compliance with the Truth in Lending Act and Federal Reserve Board Regulation Z. In both cases, the licensee must make the disclosure within three business days after receiving the borrower's loan application.

The Director of the Department of Financial Institutions may make a determination by rule that compliance with federal disclosure requirements constitutes compliance with the Consumer Loan Act.

Votes on Final Passage:

Senate 47 0
House 93 0

SB 6341

Effective: June 13, 2002

SB 6341 C 25 L 02

Amending the judicial review of sex offender registration to comply with federal funding requirements.

By Senator: Hargrove, Long, Winsley and Oke.

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

Background: The state currently receives approximately \$10 million in Byrne grant money from the federal government. The state is in danger of losing Byrne grant funds by granting the courts discretion to relieve an offender of the duty to register after conviction of certain offenses.

Summary: The courts are not allowed to relieve an offender of the duty to register if the offender has been convicted of an aggravated offense or more than one sexually violent offense. The state is brought into compliance with federal funding requirements and continues to receive Byrne grant money.

Notes on Final Passage:

Senate	44	0
House	96	0

Effective: March 12, 2002

SSB 6342 C 267 L 02

Adopting the simplified sales and use tax administration act.

By Senate Committee on Ways & Means (originally sponsored by Senators Poulsen and Gardner; by request of Department of Revenue).

Senate Committee on Ways & Means
House Committee on Finance

Background: Firms located in this state are required to collect the state sales tax on sales made to Washington residents regardless of whether the sale is made at a retail outlet, by mail order, or over the Internet. Currently, out-of-state firms with no physical presence in this state cannot be required to collect taxes for this state. A firm has a physical presence in the state if it has property, inventory, or employees in this state.

In *Quill v. North Dakota*, 112 S.Ct. 1904 (1992), the United States Supreme Court held that the federal commerce clause prohibited a state from asserting jurisdiction over mail-order firms with no physical presence in the state, citing the complexity of sales tax structures as an undue burden on interstate commerce.

Since Congress has complete power to regulate interstate commerce, federal legislation could eliminate this constitutional barrier. While federal legislation has been introduced in Congress since *Quill* to require mail-order firms to collect state sales taxes, none have been enacted.

As an alternative, the Federation of Tax Administrators, the Multi-state Tax Commission, the National Conference of State Legislatures (NCSL), and the National Governors Association created the Streamlined Sales Tax Project (SSTP) to simplify sales tax collection and administration to eliminate the burden on interstate commerce.

On December 22, 2000, state representatives to the SSTP approved a Uniform Sales and Use Tax Administration Act and Streamlined Sales and Use Tax Agreement. Subsequently, NCSL proposed its own act and agreement as an alternative.

The Administration Act authorizes the state to participate in discussions with other states for the purposes of developing a multi-state streamlined sales and use tax collection and administration system and to adopt the interstate agreement when the state is in substantial compliance with the Agreement. The Agreement contains the first set of simplifications a state needs to undertake to streamline its sales and use tax collection systems including:

- State administration of both state and local sales taxes
- Uniform state and local tax bases
- A central, electronic registration system for all member states
- Simplification of state and local tax rates
- Uniform sourcing rules
- Simplified administration of exemptions
- Simplified tax returns
- Simplification of tax remittances
- Protection of consumer privacy

In addition to simplification of the tax administration, the system relies on the use of advanced computer technology. A seller may choose a certified service provider that will perform all of the seller's sales tax functions, a seller could choose to use a certified automated system that performs the tax calculation function, leaving the filing, remittances and other responsibilities to the seller, or a seller could use a certified proprietary system.

Both the SSTP proposal and NCSL proposal are similar. NCSL's Administrative Act does not change any state law. The SSTP Administrative Act requires the Legislature to make changes to state law to simplify its sales and use tax collection systems whenever five states have made the more substantive changes required by the SSTP Agreement. The SSTP Agreement requires uniform definitions that would change the tax base. The NCSL Agreement does not.

As of October 1, 2001, 20 states have adopted one of the proposals. Washington has been observing, but adoption of one of the proposals is required to become a voting member.

Summary: The Simplified Sales and Use Tax Administration Act proposed by NCSL is adopted. The Department of Revenue is directed to represent the state as a voting member in negotiations on a multi-state sales and use tax agreement, and will regularly consult with an advisory group made up of legislators, representatives of retailers, including those selling via mail, telephone, and the Internet; representatives of large and small businesses; and representatives of counties and cities.

The department is directed to enter into the Streamlined Sales and Use Tax Agreement with one or more states if the agreement:

1. Limits the number of state rates;
2. Establishes uniform standards for the sourcing of transactions, the administration of exempt sales, and sales and use tax returns and remittances;
3. Provides a central, electronic registration system that allows a seller to register to collect and remit sales and use taxes for all signatory states;
4. Provides that registration is not a factor in determining nexus;
5. Provides for reduction of the burdens of complying with local sales and use taxes by restricting variances between the state and local tax bases, requiring states to administer local sales and use taxes, restricting the frequency and timing of changes in the local sales and use tax rates, and outlining any monetary allowances to sellers or certified service providers;
6. Requires each state to certify compliance with the agreement before joining and to maintain compliance while a member;
7. Requires each state to adopt a uniform policy for certified service providers that protects consumer privacy and maintains the confidentiality of tax information; and
8. Provides for the appointment of an advisory council of private sector representatives and an advisory council of nonmember state representatives to consult with in the administration of the agreement.

Upon becoming a member of the Streamlined Sales and Use Tax Agreement, the department is directed to prepare legislation conforming state law as necessary and provide the legislation to the fiscal committees of the Legislature.

Votes on Final Passage:

Senate	47	0
House	86	8

Effective: July 1, 2002 (except Sections 10 and 11)

ESSB 6347
PARTIAL VETO
C 201 L 02

Making transportation improvements.

By Senate Committee on Transportation (originally sponsored by Senators Haugen and Keiser; by request of Governor Locke).

Senate Committee on Transportation

Background: The Transportation Budget makes appropriations to the Department of Transportation, the Washington State Patrol, the Department of Licensing, the Transportation Improvement Board, and the County Road Administration Board.

The total appropriation for the 2001-2003 biennium was \$3.715 billion.

Summary: Project-specific appropriations are made to the Department of Transportation for preservation and improvement projects. The Department of Revenue and the Transportation Improvement Board also receive appropriations. The total appropriation in the legislation is approximately \$1.24 billion for the 2001-2003 biennium.

Votes on Final Passage:

Senate	43	5
House	78	20

Effective: March 27, 2002

Partial Veto Summary: The requirement that Everett Transit and Community Transit develop an interlocal agreement to serve special needs transit prior to receiving funding is vetoed. The appropriation for a feasibility study of a toll road as an alternative to Interstate 5 from Lewis County to the Canadian border is vetoed. The appropriation for the reconstruction of a bridge at Skobob Creek in Mason County is vetoed.

VETO MESSAGE ON SB 6347-S

March 27, 2002

*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 203(5), Page 4 (Department of Transportation - Public Transportation - Program V); 302(45), Page 20 (Department of Transportation - Improvements - Program I - Mobility and Economic Initiative Improvement Projects); 304(2), Page 23, Line 1 (Department of Transportation - Improvements - Program I - Safety Improvement Projects); 305(2), Page 24, Lines 22 through 24 (Department of Transportation - Improvements - Program I - Environmental Retrofit Improvement Projects); 810, Page 38 (new section added to chapter 47.08 RCW), Engrossed Substitute Senate Bill No. 6347 entitled:

"AN ACT Relating to transportation funding and appropriations;"

Engrossed Substitute Senate Bill No. 6347 is the list of transportation projects that will be funded if voters approve the statewide transportation revenue referendum in November of this

year. I strongly support this bill, but for a few portions that were vetoed.

Section 203(5) of the bill would have required Everett Transit and Community Transit to develop an interlocal agreement to serve paratransit and special needs transit as a condition to receiving their share of new state transit funding. Senior Services of Snohomish County is under contract with Community Transit to provide these services to county residents through 2006. While I support local efforts to address coordination between these transit systems, the provisions of this subsection would have the effect of either eliminating new state transit funding for Everett Transit and Community Transit, or negatively impacting the financial status of Senior Services of Snohomish County.

Section 302(45) of the bill provides \$350,000 of the Motor Vehicle Account - State appropriation solely for the midstate Washington corridor study. The proviso stipulates that the Department of Transportation, in consultation with local officials and residents of the area, shall conduct a study to determine the feasibility of creating a new north-south corridor as an alternative to Interstate 5 and Interstate 405 from the Canadian border to Lewis County. The department would have been required to report to the legislature no later than December 31, 2002 on the feasibility of financing and constructing such a corridor. I have vetoed this subsection because the revenues that would provide the funding for the study would not be available until after the specified reporting date. Additionally, funding was provided to the Legislative Transportation Committee in the supplemental transportation budget (ESHB 2451) to convene a working group to study the same project.

Section 304(2) provides \$9,504,000 of the Motor Vehicle Account - State appropriation for a safety improvement project on State Route 7. The proviso was inadvertently written to state that the entire appropriation was provided for preconstruction activities alone, instead of construction. In order to restore legislative intent for this project, I have vetoed the preconstruction item from the section.

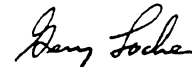
Section 305(2) provides \$1,250,000 of the Motor Vehicle Account - State appropriation solely for reconstruction of a bridge at Skobob Creek on State Route 106 in Mason County. The proviso stipulates that the project is subject to review and approval by the department, but that the Hood Canal Salmon Enhancement Group shall manage the project. This provision of the bill would set an undesirable precedent by allowing a local group to manage a project on the Department of Transportation's right of way. For this reason, I have vetoed this item.

Section 810 would have added a new section to chapter 47.08 exempting this bill from that chapter. RCW 47.08.010 provides that funds allocated for the construction or improvement of state highways shall be under the sole charge and direct control of the Department of Transportation. However, funding for highway construction and improvements in this act is appropriated specifically to the department, making the exemption unnecessary.

For these reasons, I have vetoed sections 203(5), Page 4 (Department of Transportation - Public Transportation - Program V); 302(45), Page 20 (Department of Transportation - Improvements - Program I - Mobility and Economic Initiative Improvement Projects); 304(2), Page 23, Line 1 (Department of Transportation - Improvements - Program I - Safety Improvement Projects); 305(2), Page 24, Lines 22 through 24 (Department of Transportation - Improvements - Program I - Environmental Retrofit Improvement Projects); 810, Page 38 (new section added to chapter 47.08 RCW) of Engrossed Substitute Senate Bill No. 6347.

With the exception of the foregoing sections, Engrossed Substitute Senate Bill No. 6347 is approved.

Respectfully submitted,



Gary Locke
Governor

SSB 6350

C 60 L 02

Allowing use of county road funds for state highway improvements.

By Senate Committee on Transportation (originally sponsored by Senators Haugen, Horn, McAuliffe and Oke).

Senate Committee on Transportation
House Committee on Transportation

Background: With the approval of the state Department of Transportation, a county is authorized to improve or fund the improvement of any state highway within its boundaries. A county that chooses to improve a state highway may utilize a county road improvement district (RID) under Chapter 36.88 RCW or a county service district under Chapter 36.83 RCW. Funding for the project may be by any means authorized by law except that expenditure of funds from the county road fund for state highways is prohibited.

Summary: The prohibition against the use of county road funds for the improvement of state highways is eliminated. The use of the county road fund on state projects is prohibited on maintenance projects or for operations.

Votes on Final Passage:

Senate	48	1
House	93	0

Effective: June 13, 2002

SSB 6351

C 206 L 02

Requiring notification policies regarding threats at schools.

By Senate Committee on Education (originally sponsored by Senators Haugen, McAuliffe, Finkbeiner, Rasmussen, Hochstatter, Stevens, Eide, Kohl-Welles, Keiser and Oke).

Senate Committee on Education
House Committee on Education

Background: Under current Washington law when a school district receives information that a student has a

past history of disciplinary actions, criminal or violent behavior or other behavior that indicates he or she may be a threat to the safety of staff or other students, the school must provide that information to the student's teachers and security personnel. This law does not apply to current threats of harm or violence a student may make against school staff or other students.

Summary: School districts must adopt a policy by September 1, 2003, that addresses (1) the procedures for providing notice of threats of violence or harm to the student or school employee who is the subject of the threat, and (2) how information relating to a student's conduct is to be disclosed to teachers, staff, and school security, including but not limited to, information about disciplinary records, official juvenile court records, and history of violence. The policy must also establish a definition of "threats of violence or harm" and address whether or not any such threat of violence or harm made by a student may be grounds for immediate suspension or expulsion of the student.

The Superintendent of Public Instruction in consultation with the groups listed in the bill must develop a model policy by January 1, 2003. The model policy must be posted on the Superintendent of Public Instruction's website and school districts, in drafting their own policies, must review the model policy.

Immunity from liability arising out of the notification is provided if the notice is given in good faith and is consistent with the board's policies adopted under this section. Making a false notification of a threat is a misdemeanor if it is done knowingly, intentionally and in bad faith or maliciously.

Votes on Final Passage:

Senate	48	0	
House	94	0	(House amended)
Senate			(Senate refused to concur)
House	96	0	(House amended)
Senate	49	0	(Senate concurred)

Effective: June 13, 2002

2SSB 6353
C 283 L 02

Concerning the use of migratory bird stamp and migratory bird validation fees.

By Senate Committee on Ways & Means (originally sponsored by Senators Haugen, Oke and Jacobsen).

- Senate Committee on Natural Resources, Parks & Shorelines
- Senate Committee on Ways & Means
- House Committee on Natural Resources
- House Committee on Appropriations

Background: Current fees for a Washington State migratory bird stamp are \$6 for both hunters and collectors.

The migratory bird stamp requirement was created in 1985, at which time the fee was \$5. The fee was last increased from \$5 to \$6 in 1991.

Summary: The fee for a Washington State migratory bird stamp is increased from \$6 to \$10 for both hunters and collectors. Migratory bird stamp funds may not be used on private hunting clubs or on private lands that charge a fee for access.

Votes on Final Passage:

Senate	37	12	
House	53	44	(House amended)
Senate	37	9	(Senate concurred)

Effective: June 13, 2002

SSB 6364
C 268 L 02

Implementing recommendations of the joint legislative task force on mobile/manufactured home alteration and repair.

By Senate Committee on Labor, Commerce & Financial Institutions (originally sponsored by Senators Winsley, Prentice, Hargrove, Fairley, Kastama and Rasmussen).

- Senate Committee on Labor, Commerce & Financial Institutions
- House Committee on Commerce & Labor

Background: Some alterations to mobile/manufactured homes require a permit from the Department of Labor and Industries. Other alterations require a permit from local building authorities, and some alterations do not require a permit at all. There is concern that mobile/manufactured home alteration permit requirement rules are confusing and inconvenient for homeowners.

Engrossed Substitute Senate Bill 5703, which passed the Legislature in 2001, created a joint legislative task force to review the regulation of mobile/manufactured home alteration and repair. The task force met several times during the fall of 2001 and included legislators, homeowners, real estate brokers and mortgage lenders, housing manufacturers and retailers, plumbing and electrical business and labor representatives, and state agency representatives.

The task force participants agreed to create a pilot project to make the alteration permitting process more convenient and understandable for homeowners. Under the pilot project, a homeowner can go to either the department or a local building authority and receive a permit for all mobile/manufactured home alterations. The task force also agreed to give the department authority to assess civil penalties for violations of alteration permit laws, to allow the department to adopt a rule

regarding conditional sales of mobile/manufactured homes, and to revise the definition of residential real property to include mobile/manufactured homes that are personal property.

Summary: The Department of Labor and Industries may adopt a temporary fee schedule to implement the interagency mobile/manufactured home alteration pilot project. Fees for the pilot project may be waived for indigent permit applicants. Fees for in-factory plan review and inspection services may be increased beyond the fiscal growth factor specified by Chapter 43.135 RCW if the increases are necessary to fund the cost of administering the department's mobile/manufactured home and factory assembled structure programs. Fees for mobile/manufactured home alteration permits may be decreased. When the new fee schedule expires on April 1, 2004, the department must adopt the fee schedule that was in place prior to the pilot program, adjusted by fiscal growth factors for the time that the program was in effect.

If businesses do not obtain a permit before altering a mobile/manufactured home, the department may assess a civil penalty of not more than \$1000 per day and not more than \$5000 cumulatively for a given violation. For subsequent violations within two years, the penalty per day must be double the amount for the prior penalty or \$1000, whichever is greater. The department must adopt a schedule of civil penalties giving consideration to the gravity of the violation and the history of previous violations.

The department may issue a notice of correction before issuing a civil penalty assessment. The notice must include a description of the violation, a statement of what is required to correct the violation, and the date by which the department requires the correction to be made before penalties are assessed.

The department must issue written notices of civil penalties. If a party desires to contest a civil penalty issued under this section, he or she must file a notice of appeal with the department within 20 days of the date that the department mails the notice. An administrative law judge of the Office of Administrative Hearings hears the appeal.

The department can audit contractors' records to determine compliance with permitting requirements for mobile/manufactured home alterations.

The definition of residential real property is revised to include mobile/manufactured homes which are personal property, so that persons selling their mobile/manufactured home will need to fill out a residential real property disclosure form.

The department may adopt a rule allowing parties to enter into a conditional sale of an altered mobile or manufactured home. Under such an agreement, the parties involved must comply with the department's alteration requirements prior to the sale of the home.

The department cannot prohibit the sale of an installed home with an unsafe alteration. Instead, the department, when requested to inspect an altered home by a party to the sale, must notify the parties to the sale in writing within 30 days if it determines that an alteration constitutes a hazard to life, safety, or health. The department may also notify local fire officials and local health officers of the hazard.

Votes on Final Passage:

Senate	47	0	
House	73	23	(House amended)
Senate	37	9	(Senate concurred)

Effective: March 29, 2002 (Sections 1, 2, 4-9)
April 1, 2004 (Section 3)

SB 6372
C 61 L 02

Creating the combined fund drive account.

By Senators Fraser and Winsley; by request of Department of Personnel.

Senate Committee on Ways & Means
House Committee on State Government

Background: Currently state employees and retirees have the option of making charitable donations through an annual combined fund drive.

The Combined Fund Drive Committee, appointed by the Governor, sets policy and oversees the annual charitable campaign. Staff within the Department of Personnel handle associated administrative duties.

Concerns have been expressed that the Department of Personnel does not have explicit rule-making authority for the purposes of operating the fund drive, and that the funds collected for the drive should be deposited within an account in the state treasury until they are disbursed.

Summary: The statute referring to the "united fund" is updated to refer to the "Washington state combined fund drive."

The director of the Department of Personnel is authorized to adopt rules for the fund drive, after consultation with agencies, institutions, and employee organizations.

Collected contributions are deposited in a new account within the state treasury. The combined fund drive account retains its own interest, and may only be expended by authorization from the director of the Department of Personnel for the beneficiaries of the fund drive.

Votes on Final Passage:

Senate	44	0
House	93	0

Effective: June 13, 2002

SB 6374
C 26 L 02

Correcting errors and oversights in certain retirement system statutes.

By Senators Jacobsen, Winsley, Regala, Carlson and Fraser; by request of Joint Committee on Pension Policy.

Senate Committee on Ways & Means
House Committee on Appropriations

Background: Erroneous References Relating to Certificated Teaching Employees. In the 2001 sessions, the Legislature passed ESSB 5937, which allowed Public Employees' Retirement System, Plan 1 (PERS 1) and Teachers' Retirement System, Plan 1 (TRS 1) employees to retire and return to work without actuarial reduction in benefits. Following the passage of ESSB 5937, several referential errors were discovered. These errors made replacement and post-retirement rehires exempt from provisions dealing with payroll deductions, collective bargaining, review requirements, and several other rights associated with regular certificated employees.

Reconciliation of Existing Statutes and Removing References to Restated LEOFF 1. In the 2001 sessions, duplicate statutes detailing the contribution rate setting process were enacted. Further, although the Legislature did not enact ESSB 6166, which would have terminated and restated the Law Enforcement Officers' and Fire Fighters' retirement system Plan 1 (LEOFF 1), many enacted bills of the 2001 legislative session assumed passage of ESSB 6166.

Correcting Erroneous References in SERS Statutes. Legislation to create a new School Employees' Retirement System, Plans 2 (SERS 2) and 3 (SERS 3) was enacted in 1998. The new retirement systems covered classified school employees, and was modeled after the Teachers' Retirement System, Plan 3 (TRS 3) statutes. In some cases, cross-references from TRS 3 statutes were mistakenly retained in SERS 3 statutes.

Inclusion of PERS 3 and TRS 3 in Statutes Relating to Benefit Division Orders. Legislation to create the SERS 3 and the Public Employees' Retirement System, Plan 3 (PERS 3) plans was enacted in 1998 and 1999, respectively. However, neither bill specified the process by which retirement benefits might be divided in the event of a divorce.

For all other plans within the state retirement systems, if a member divorces, the court may incorporate into the divorce order the division of regular retirement benefits between the member and ex-spouse. Pre-assignment of this benefit through the dissolution order guarantees the ex-spouse a portion of the member's benefit until the member dies.

Resolving Conflicts Related to the Partial Veto of ESSB 5937. Legislation was enacted in the 2001 legislative session that provided retirees of Public Employees' Retirement System, Plan 1 (PERS 1) and TRS 1 to return

to work for up to 1,500 hours per year without reduction of their pension benefits. As it passed the Legislature, the bill contained a partial expiration date which called for reenactment of the original statutes governing post-retirement employment for members of the affected state retirement systems. The portion of the bill containing the expiration date was vetoed by the Governor, creating a conflict between the original statute and the new provision created in the bill.

Summary: Erroneous References Relating to Certificated Teaching Employees. The exemption of certificated replacement and post-retirement workers is removed from rights associated with regular certificated employees, and exemptions are inserted of the same from continuing contract provisions.

Reconciling Existing Statutes and Removing References to Restated LEOFF 1. Changes are made relating to statutory reconciliation and statutes relating to LEOFF 1 as follows: (1) duplicate statutes dealing with the adoption of contribution rates are reconciled by reenacting the statute referring to the original LEOFF 1; (2) references to LEOFF 1 in the statute dealing with the amortization of unfunded liabilities are reinserted; and (3) statutory references to Restated LEOFF 1 are replaced by references to the original LEOFF 1.

Correcting Erroneous References in SERS Statutes. Mistaken cross-references to PERS and TRS in SERS statutes are corrected.

Inclusion of PERS 3 and TRS 3 in Statutes Relating to Benefit Division Orders. References to PERS 3 and TRS 3 are included in statutes relating to pre-retirement assignment of survivor benefits in divorce orders.

Resolving Conflicts Related to the Partial Veto of ESSB 5937. The original statute governing post-retirement employment for PERS 1 and TRS 1 is decodified.

Votes on Final Passage:

Senate	46	0
House	96	0

Effective: June 13, 2002

SB 6375
C 27 L 02

Conforming the Washington state retirement systems to federal requirements on veterans.

By Senators Fraser, Winsley, Regala, Carlson, Rasmussen, Kastama and Oke; by request of Joint Committee on Pension Policy.

Senate Committee on Ways & Means
House Committee on Appropriations

Background: Military Service Credit. If a member of either the Washington State Patrol Retirement System (WSPRS) or the Public Employees Retirement System Plan 1 (PERS 1) has a minimum of 25 years of service,

the member may receive up to five years of interruptive or prior military service credit free of charge that may be applied to their service to the state retirement systems. Currently, in the WSPRS and PERS 1, that provision only applies to those members not already receiving full federal military retirement benefits. Those members receiving full federal military retirement benefits are expressly prohibited from receiving military service credit for same the period from the state.

A federal statute requires that, if a state law allows members of a state retirement system to receive service credit for time served in the military, that allowance must be calculated without respect to any federal retirement benefits they may be already receiving. This means that the federal statute conflicts with the state statute.

Definition of Vietnam Era. A state statute defines "veteran" for pension purposes as any member of the retirement systems who, at the time the member seeks specified veteran's benefits through the state retirement systems, served particular specified functions in any branch of the military during any period of war, as defined in statute. This statute defines the Vietnam Era as that period beginning August 5, 1964, and ending May 7, 1975. This statute was amended in early 1996 to match the federal statutory definitions.

The same year that the state statute was amended, the federal statute was also amended to extend the definition of the Vietnam Era to include the period beginning February 28, 1961, and ending May 7, 1975, for those veterans serving in the Republic of Vietnam during that period.

Summary: Military Service Credit. For members of WSPRS and PERS 1 who receive full federal military retirement benefits, the prohibition on receiving state service credit based on that same period of military service is eliminated. This revised requirement conforms to the federal code.

Definition of Vietnam Era. For public pension purposes, the Vietnam Era is redefined as either (1) the period beginning August 5, 1964, and ending May 7, 1975, for all veterans or (2) the period beginning February 28, 1961, and ending May 7, 1975, for those veterans serving in the Republic of Vietnam during that period. This revised definition conforms to the federal statute.

Votes on Final Passage:

Senate	48	0
House	97	0

Effective: June 13, 2002

Transferring to the public employees' retirement system plan 3.

By Senators Regala, Winsley, Fraser, Carlson, Jacobsen, Rasmussen, Kastama and Oke; by request of Joint Committee on Pension Policy.

Senate Committee on Ways & Means
House Committee on Appropriations

Background: In the 2000 legislative session, a new Public Employees' Retirement System, Plan 3 (PERS 3), was created for employees of state agencies and higher education institutions, effective March 1, 2002. PERS 3 is available to employees of local government who may transfer to PERS 3 effective September 1, 2002.

PERS 3 is a split plan, similar to the Teachers Retirement Plan 3, with a defined benefit portion and a defined contribution portion. The design of the defined benefit portion of PERS 3 is generally the same as PERS 2, except PERS 3 has a 1 percent benefit at retirement rather than 2 percent. The defined benefit portion is funded entirely by employer contributions; PERS 3 members make no contributions to the funding of the defined benefit portion.

Current members of PERS 2 have the option to transfer to PERS 3. Those who do so have their service credit and accumulated contributions transferred to their individual account in PERS 3. PERS 2 members who 1) are state agency and higher education employees; 2) transfer between March 1, 2002, and September 1, 2002; and 3) earn service credit in February 2003, will receive a transfer payment to their PERS 3 defined contribution accounts equal to 110 percent of their accumulated contributions. Local government employees who transfer from PERS 2 to PERS 3 between September 1, 2002, and June 1, 2003, and who earn service credit in February 2003, receive a 111 percent transfer payment. Transfer payments will be made June 1, 2003.

Initial PERS 3 legislation did not exempt seasonal employees and employees on military leave of absence from transfer window requirements. This means that, although they are regular employees and members of the PERS 2 system, seasonal employees and employees on military leave of absence may not have the opportunity to benefit from the transfer payment option because they might not be employed and earning service credit in February, 2003.

Summary: The designated period to qualify for the transfer payment for transferring from PERS Plan 2 to PERS Plan 3 is changed to June 2002 for employees of state agencies and higher education institutions and either June 2002 or February 2003 for employees of all other organizations.

Votes on Final Passage:

Senate 46 0
 House 97 0 (House amended)
 Senate 40 0 (Senate concurred)

Effective: June 13, 2002

SB 6378
 C 28 L 02

Authorizing part-time leaves of absence for law enforcement members of the law enforcement officers' and fire fighters' retirement system plan 2.

By Senators Spanel, Carlson, Jacobsen, Winsley, Fraser, Regala, Rasmussen, McAuliffe, Kohl-Welles and Keiser; by request of Joint Committee on Pension Policy.

Senate Committee on Ways & Means
 House Committee on Appropriations

Background: The Law Enforcement Officers' and Fire Fighters' Retirement System, Plan 2 (LEOFF 2) requires that members earning service credit be full-time, fully compensated eligible employees. LEOFF 2 also contains provisions for employer authorized full-time unpaid leaves of absences. Under these provisions, members may purchase up to two years of service credit upon return to full service, by paying the member, employer, and state contributions to the Department of Retirement Systems within five years of returning to service.

A member may also receive service credit for a full-time paid leave of absence if that member serves as an elected official of a labor organization and the employer is reimbursed by the labor organization for employer contributions. A member elected or appointed to a state office may choose to continue membership in LEOFF 2 even if the member does not continue in full-time status. This is the only circumstance under which a member may continue earning service credit for status other than full-time.

Currently, if a member wishes to take a part-time leave of absence, the member is ineligible for LEOFF 2 membership during that period because the member is not considered a full-time, fully compensated eligible employee. Under these circumstances, the member is not permitted to earn or purchase service credit for that period.

Summary: A part-time leave of absence provision for existing law enforcement members of LEOFF 2 is added to existing leave of absence rules. The part-time leave must be authorized by the member's employer, and the member is prohibited from other employment with the employer during the part-time leave. The member may purchase service credit for the portion of time worked during the part-time leave of absence and, upon return to full-time employment, may purchase service credit for

periods of part-time leave up to the existing two-year limit by paying the member, employer, and state contributions, plus interest, within five years of returning to full-time employment.

Votes on Final Passage:

Senate 41 0
 House 97 0

Effective: June 13, 2002

SB 6379
 C 269 L 02

Transferring service credit and contributions into the Washington state patrol retirement system.

By Senators Carlson, Winsley, Jacobsen, Fraser, Regala, Rasmussen, McAuliffe and Hale; by request of Joint Committee on Pension Policy.

Senate Committee on Ways & Means
 House Committee on Appropriations

Background: Commercial Vehicle Enforcement Officers (CVEOs) are considered "special deputies," and are appointed by the Chief of the Washington State Patrol (WSP). CVEOs are "limited authority" officers who have enforcement duties in the arena of commercial vehicles and school bus or private carrier buses. Their primary function is to inspect private commercial vehicles and school buses, ensuring that regulations regarding vehicle weight, size, and licensure are appropriate and in compliance with state law. Because they are limited authority officers they are not commissioned and, therefore, are not members of the Washington State Patrol Retirement System (WSPRS). Instead, they are members of the Public Employees Retirement System Plan 2 (PERS 2).

There are two types of CVEOs: those who are at fixed scales and are unarmed, and those who carry arms and are responsible for a particular jurisdiction rather than a fixed location. The 2000 supplemental transportation budget appropriated funds allowing up to 30 CVEOs to complete the WSP Academy training and become commissioned officers. As commissioned officers, they are automatically members of WSPRS. This means that, although their past service is currently in PERS 2, all future service credit earned by these commissioned officers will be earned within the WSPRS.

Summary: CVEO members of PERS 2 who chose to take additional WSP Academy training and become fully commissioned officers are provided the option to leave earlier service credit and contributions in PERS 2 and receive benefits in both PERS 2 and WSPRS, or to transfer their contributions and service credit earned as CVEOs to WSPRS. If the officer elects to transfer all service credit and contributions to WSPRS, the officer must pay the difference between employee and employer

ESB 6380

contributions made to PERS 2 and those which would have been paid to WSPRS, inclusive of interest.

Votes on Final Passage:

Senate 47 0

House 92 3

Effective: June 13, 2002

ESB 6380

C 158 L 02

Creating new survivor benefit division options for divorced members of the law enforcement officers' and fire fighters' retirement system, the teachers' retirement system, the school employees' retirement system, the public employees' retirement system, and the Washington state patrol retirement system.

By Senators Winsley, Fraser, Carlson, Spanel, Jacobsen, Regala, Rasmussen, McAuliffe and Kohl-Welles; by request of Joint Committee on Pension Policy.

Senate Committee on Ways & Means

House Committee on Appropriations

Background: Joint and survivor benefits provide continuing benefits to a survivor after the death of the member. Before retirement, the pre-selection of a survivor benefit may be the only way the non-member spouse can be protected with a lifetime benefit. After retirement, there is no way to revoke or alter the survivor benefit, even if the member's personal circumstances change because of marriage, divorce, or death of a spouse.

Regarding survivor benefits, there are two types of plans in the state retirement system: 1) plans providing an automatic survivor benefit; and 2) plans offering an optional survivor benefit.

Plans Offering an Automatic Survivor Benefit. The Law Enforcement Officers' and Fire Fighters' Retirement System, Plan 1 (LEOFF 1) and the Washington State Patrol Retirement System (WSPRS) are both automatic plans. This means that spousal survivor benefits are provided as part of the basic pension benefit and require no actuarial reduction of the pension benefit. Assuming a qualifying spouse is present, a joint and survivor benefit for qualified spouses is automatically included in the retirement allowance received by retirees of LEOFF 1 and WSPRS. A qualified spouse for LEOFF 1 is a spouse married to a member one year prior to retirement or at the time of the disability. A qualified spouse for the WSP is a spouse married to the member two years prior to retirement.

Plans Offering an Optional Survivor Benefit. Public Employees' Retirement System, Plans 1 and 2 (PERS 1 and 2), Teachers' Retirement System, Plans 1, 2, and 3 (TRS 1, 2 and 3), and School Employees' Retirement System, Plans 2 and 3 (SERS 2 and 3) are all optional survivor benefit plans. This means that members who

elect to have a survivor benefit for a spouse or other designated person must take an actuarial reduction in their pension benefit to do so. The amount of the reduction is based on three factors: 1) the difference in the age of the member and designated survivor; 2) the expected survivor's benefit; and 3) the member's retirement system and plan.

Members of PERS 1 and 2, TRS 1, 2 and 3, SERS 2 and 3, and LEOFF 2 all have the option of including joint and survivor coverage as part of their pension benefit. The monthly pension of a retiree who chooses a survivor benefit is reduced to pay for the survivor benefit. The designation of the retiree's beneficiary, who may be someone other than a spouse, must be made at the time of retirement. The beneficiary designation cannot be modified even if the retiree's personal circumstances change.

Summary: For members who divorce in the future, new options for dividing survivor benefits consistent with community property and divorce laws are created.

Plans Offering an Automatic Survivor Benefit. A new option for survivor benefits is created that permits the divorcing spouse at the time of divorce by court decree to claim not only a portion of the member's benefit, but also a portion of any future spouse's survivor benefit. The bill incorporates the addition of an optional, actuarially reduced spousal survivor benefit during a window opening one year after a post-retirement marriage, similar to the post-retirement marriage option added to the optional plans by the 2000 Legislature.

Persons who became LEOFF 1 surviving spouses prior to 1977 are allowed to remarry without losing their survivor benefits. This is consistent with current practice regarding persons who became surviving spouses after 1977. The split benefits created at the time of a divorce continue for the life of the nonmember spouse, regardless of whether the member is still alive. This provision applies to a marriage that lasted 25 years or more, the member had at least 30 years of service, and the divorce occurred on or after January 1, 1997.

Plans Offering an Optional Survivor Benefit. The Department of Retirement Systems must adopt rules by July 1, 2003, to make a new survivor option available at divorce. The new rules must provide for a division of the total benefits of the member and divorcing spouse into two separate, single-life benefits payable for the life of that individual.

If the above division occurs before the member retires and the member later remarries, that member remains subject to the spousal survivor benefit requirements when he or she retires. Subsequent reductions to create new survivor benefits are made solely to the member's remaining benefit; the separate, single-life benefit created for the non-member spouse in the earlier divorce is not affected. The divorced spouse of the member is eligible to begin receiving their survivor benefit when

they reach normal retirement age under the plan of their divorced spouse (age 60 in PERS 1, TRS 1, and SERS 1, and age 65 in PERS 2 and 3, TRS 2 and 3, SERS 2 and 3, and LEOFF 2).

If the divorce occurs after the member retires, the separate single-life benefit option described above is only available to spouses who chose a survivor benefit for the non-member spouse at retirement. In this instance, the non-member spouse is eligible to begin receiving their benefit immediately. If the retired member elects to later remarry and create a new survivor benefit, the member's single-life benefit is actuarially reduced, without impact on the ex-spouse's single life benefit.

Votes on Final Passage:

Senate	47	1	
House	90	6	(House amended)
Senate	44	0	(Senate concurred)

Effective: June 13, 2002

SB 6381

C 62 L 02

Separating from public employees' retirement system plan 1.

By Senators Fraser, Winsley, Spanel, Regala and Jacobsen; by request of Joint Committee on Pension Policy.

Senate Committee on Ways & Means
House Committee on Appropriations

Background: Active members of the Public Employees' Retirement System, Plan 1 (PERS 1) may receive an unreduced retirement allowance at any age if they have 30 years of service, at age 55 after 25 years of service, or at age 60 after five years of service. However, if a PERS 1 member leaves PERS employment prior to retirement, the retirement age for that member increases to age 65 and the member may not receive an unreduced retirement allowance until that time. The only other state retirement plan that provides a higher retirement age for persons who separate employment prior to retirement is the Washington State Patrol Retirement System; in all other plans the retirement age does not differ for active and inactive members.

Inactive PERS 1 members have the option of receiving an actuarially reduced retirement allowance beginning as early as age 60. The actuarial reduction for retirement at age 60 is approximately 40 percent; thus, an inactive PERS 1 member who is eligible for a \$1,000 monthly benefit at age 65 would receive about \$600 if the benefit commenced at age 60.

Summary: A PERS 1 member who: separates from service after January 1, 2002; is age 50 or older, has at least 20 years of service; and is not retired as of the

effective date of the bill, may begin receiving an unreduced retirement allowance at age 60. This new provision does not apply to members who have withdrawn all or part of their contributions.

Votes on Final Passage:

Senate	42	6
House	94	0

Effective: June 13, 2002

ESSB 6387

PARTIAL VETO

C 371 L 02

Making 2001-03 biennium supplemental operating appropriations.

By Senate Committee on Ways & Means (originally sponsored by Senator Brown; by request of Governor Locke).

Senate Committee on Ways & Means

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 from 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	26	23	
House	50	47	(House amended)
Senate	26	22	(Senate concurred)

Effective: April 5, 2002

Partial Veto Summary: The Governor vetoed 34 sections or parts of sections of the supplemental biennial appropriations act. For additional details, see 2002 Legislative Budget Notes, published by the Senate Ways & Means Committee and the House of Representatives Appropriations Committee.

VETO MESSAGE ON SB 6387-S

April 5, 2002

To the Honorable President and Members,
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval the following appropriation items and sections 103, lines 10-11; 113, line 23; subsections 125(31); 125(34); 137(2); 137(4); 204(1)(h); 204(1)(k); 204(5)(c); 205(1)(a); 205(1)(j); 206(11); 207(1)(e);

207(1)(f); 207(1)(g); 207(1)(h); 207(1)(i); 207(1)(j); 207(1)(k); 207(1)(l); 207(1)(m); 207(1)(n); 221(2)(i); 308(18); 501(2)(b)(iii); 604(10); 605(4); section 606, lines 31-38, page 204; lines 1-3, page 205; subsections 607(1); 607(2); 608(1); 608(11); 609(2); and section 725 of Engrossed Substitute Senate Bill No. 6387 entitled:

“AN ACT Relating to fiscal matters;”

Engrossed Substitute Senate Bill No. 6387 is the state supplemental operating budget for the 2001-2003 Biennium. I have vetoed several provisions as described below:

Subsection 125(34), Page 29, Mobile Home Relocation Assistance (Department of Community, Trade, and Economic Development) (CTED)

This subsection designated \$202,000 from the nonappropriated Mobile Home Park Relocation Account for implementation of Second Substitute Senate Bill 5354, the Mobile Home Relocation Assistance Fee Act. Since the account is nonappropriated, CTED will still be able to spend the funds in a manner that will accomplish the intent of the policy bill.

Subsection 204(1)(h), Page 63, Restrictions on Administration Costs for Regional Support Networks (RSNs) (Department of Social and Health Services (DSHS) - Mental Health Program)

The 8 percent administrative cap in this proviso may not be appropriate for all RSNs. In response to the Joint Legislative Audit and Review Committee recommendations, DSHS is currently conducting a review of existing RSN administration levels. That review is expected to be finished within a month. Until this review is complete, it is premature to set an administrative cap for each individual RSN. The budget contains other language and savings requirements that will impose sufficient restraints on RSN administrative spending without the necessity of this proviso.

Subsection 204(1)(k), Page 63, Mental Health Ombudsman Proposal Development (Department of Social and Health Services (DSHS) - Mental Health Program)

This proviso would have required the Department of Community, Trade, and Economic Development and DSHS to develop a proposal to create a structurally and functionally independent mental health ombudsman program. This requirement increases the workload for both departments without providing additional funding during a time of increasing fiscal constraints.

Subsection 204(5)(c), Pages 67-68, State Hospital Bed Allocation (Department of Social and Health Services (DSHS) - Mental Health Program)

Beginning this year, DSHS implemented a new state hospital bed allocation plan based on a more equitable distribution methodology than was previously used. The plan also addressed potential legal issues related to historical allocations. To minimize impacts, the new allocation formula has been phased in and Regional Support Networks signed their contracts based on the new bed formula. In light of this, it is inappropriate to substitute the allocation method mandated in Subsection 204(5)(c). I have vetoed this proviso in order to maintain the current approach.

Subsection 205(1)(a), Page 68, Monthly Progress Reports (Department of Social and Health Services (DSHS) - Developmental Disabilities Program)

This requirement for additional monthly reports is excessive, and there are alternative means to effectively provide the information needed by the Legislature. I have directed DSHS to keep the Legislature fully informed of actions taken by the Division of Developmental Disabilities regarding the implementation of expanded services, the development and implementation of new home and community-based waivers, and improvements in program and fiscal management. DSHS will coordinate with the Legislature to adjust the agency's existing reporting mechanisms to ensure that necessary information is communicated on an appropriate and timely schedule.

Subsection 207(1)(e), Page 80, Drug and Alcohol Treatment Services (Department of Social and Health Services (DSHS) - Economic Services Program)

This proviso would have reduced funding for DSHS to contract with the Employment Security Department to maintain support for drug and alcohol treatment services designated to help parents receiving Temporary Assistance to Needy Families (TANF) benefits. Funding for employment services is central in assisting TANF recipients to find work and leave welfare. If families remain on TANF, the funding for alcohol and drug treatment, as well as other needed support services, will not be available.

Subsection 207(1)(f), Page 80, Comprehensive Drug and Alcohol Treatment Project (Department of Social and Health Services (DSHS) - Economic Services Program)

This subsection would have provided an additional \$878,000 of the federal appropriation for the comprehensive alcohol and drug treatment project. I have vetoed this item, but will dedicate \$878,000 of existing General Fund-State appropriations to match federal Medicaid funds. This action will increase the funds available for these projects to \$1,756,000 and allow the evaluation of these projects to be completed.

Subsection 207(1)(g), Page 80, Job Search and Job Placement Activities (Department of Social and Health Services (DSHS) - Economic Services Program)

This proviso would have limited the funds available for job search and job placement activities to \$5.8 million for the biennium. DSHS cannot comply with this proviso since it has already expended over \$19 million on these activities.

Subsection 207(1)(h), Page 80, WorkFirst Post-Employment Labor Exchange Program (Department of Social and Health Services (DSHS) - Economic Services Program)

This proviso would have eliminated the WorkFirst Post-Employment Labor Exchange program. This program is the only post-employment service available to WorkFirst participants and needs to be retained. These services aid participants in job retention, lower the number of clients returning to TANF, and support wage progression. A thorough evaluation of the program will be completed this summer, and the program's effectiveness will be reviewed again at that time.

Subsection 207(1)(i), Page 80, Indigent Civil Legal Services (Department of Social and Health Services (DSHS) - Economic Services Program)

I am pleased that the Legislature restored \$1.5 million (in the Department of Community, Trade, and Economic Development budget) of the \$2.4 million in legal services funding that was eliminated from the program in February. However, there are not sufficient funds in the WorkFirst budget to continue to provide these services, so I have vetoed the proviso appropriating \$900,000 in federal funds to DSHS.

Subsection 207(1)(j), Page 80, Limit on Child Care Subsidy Co-payment (Department of Social and Health Services (DSHS) - Economic Services Program)

This proviso would have limited the increase in co-payments for childcare to no more than two dollars per month. However, an increase of five dollars in the current co-pay must be implemented to keep program expenditures within available funds. The proviso also restricts the agency's future flexibility by forcing the childcare program to reduce eligible clients rather than increasing co-pay rates.

Subsection 207(1)(k), Page 80, Parenting Skills Funding (Department of Social and Health Services (DSHS) - Economic Services Program)

This proviso would have restored funding for parenting and family management skills development, enhanced childcare rates, and other programs provided at the community colleges. While these are valuable services, there are insufficient funds in the WorkFirst budget to restore these programs to the level required by the proviso. The community and technical colleges are currently reviewing the best way to serve clients being referred to them, and need flexibility in their expenditure plan.

Subsection 207(1)(l), Page 80, After-school Programs for Middle School Youth (Department of Social and Health Services (DSHS) - Economic Services Program)

The Legislature restored \$300,000 for after-school programs for middle school youth by assuming use of federal funding. Although this is an innovative program that benefits middle school students by providing out-of-school care, it is not core to the goals of WorkFirst and cannot be achieved without displacing other programs.

Subsection 207(1)(m), Page 80, Consultation and Training for Child Care Providers Caring for Children with Special Needs (Department of Social and Health Services (DSHS) - Economic Services Program)

By this proviso, the Legislature would have restored \$3.4 million to the Department of Health for services by local public health nurses to provide consultation and training to child care providers caring for children with special needs. This is a worthy program, but there are insufficient funds in the WorkFirst budget to continue to provide these services, so I have vetoed this item.

Subsection 207(1)(n), Page 80, Hometown and College Mentoring Services and Programs for Low-Income Youth (Department of Social and Health Services (DSHS) - Economic Services Program)

This proviso would have dedicated \$1 million of WorkFirst federal funds to the Hometown and College Mentoring Services and Programs (Community in Schools Program). Funding for this program has already been provided, thus there is no need for this proviso.

Subsection 308(18), Page 135, Cost Recovery for Conservation Areas and Recreational Sites in the San Juan Islands (Department of Natural Resources (DNR))

This proviso would have directed DNR to employ cost recovery methods at its Natural Resource Conservation Areas and recreation sites in the San Juan Islands comparable to those used by State Parks. This approach could result in the imposition of fees for use of the DNR sites. A task force is created elsewhere in the budget (Subsection 303(6)) to give all users and agencies an opportunity to discuss funding options for the state's outdoor recreation facilities. Implementing a fee solely for the San Juan Islands Natural Resource Conservation Areas and recreation sites before the task force has begun is premature. Given the current state budget outlook, I encourage all interested parties to provide suggestions to the task force for funding the ongoing maintenance and operations of outdoor recreational facilities.

Multiple Sections

In order to maintain a more responsible reserve and because additional revenues were assumed but not enacted, I have eliminated a number of General Fund-State supplemental items. While many of these additions are worthwhile, I have vetoed the following items to save the state General Fund-State \$37,008 million.

- Section 103, lines 10-11, page 3, Second Year Funding Increase (Joint Legislative Audit and Review Committee)
- Section 113, line 23, page 11, Dependency and Termination Pilot (Office of Public Defense)
- Subsection 125(31), page 28, Artistic Organization Support Department of Community, Trade, and Economic Development)
- Subsection 137(2), pages 38-39, Tax Incentives Study (Department of Revenue)
- Subsection 137(4), page 39, Municipal Business and Occupation Tax Uniformity (Department of Revenue)
- Subsection 205(1)(f), pages 71-72, Home Care Worker Wage Increase (Department of Social and Health Services - Developmental Disabilities Program)
- Subsection 206(11), pages 76-77, Home Care Worker Wage Increase (Department of Social and Health Services - Long-Term Care). I am asking DSHS to put \$2,927,000 of General Fund-State in allotment reserve status to reflect this veto.

- Subsection 221(2)(i), page 104, Motor Vehicle Theft (Department of Corrections)
 - Subsection 501(2)(b)(iii), pages 147-148, Technology Task Force (Office of the Superintendent of Public Instruction Statewide Programs)
 - Subsection 604(10), page 203, Recruitment and Retention (University of Washington)
 - Subsection 605(4), page 204, Recruitment and Retention (Washington State University)
 - Section 606, lines 31-38, page 204; lines 1-3, page 205, Recruitment and Retention (Eastern Washington University)
 - Subsection 607(1), page 205, Enrollment Recovery (Central Washington University)
 - Subsection 607(2), page 205, Recruitment and Retention (Central Washington University)
 - Subsection 608(1), page 206, Recruitment and Retention (The Evergreen State College)
 - Subsection 608(11), pages 208-209, Washington State Institute for Public Policy Studies (The Evergreen State College)
 - Subsection 609(2), pages 209-210, Recruitment and Retention (Western Washington University)
 - Section 725, page 244, Tort Liability Account
- I also have concerns about two provisos of this bill that I did not veto:

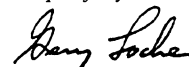
Subsection 204(1)(j) requires that DSHS reduce funding to the Regional Support Networks based on an excess of specified reserves. Recognizing legislative interests, I am directing DSHS to work with the Regional Support Networks to develop an implementation plan that identifies and best addresses any unintended consequences, were the reserves to be liquidated as planned. The implementation plan will ensure that the total reserve spend-down will result in the necessary general fund savings as required by the appropriations bill.

Subsection 205(1)(b) is an essential component of the settlement in the *Arc v. State of Washington* case. Although there have been concerns expressed to me regarding the program implications, vetoing this proviso would eliminate the funding needed to phase in service expansions agreed upon in the settlement and would risk continued litigation. The funding assumptions in this subsection, though complicated, will expand services. This subsection also requires a redesign of some elements of the family support, and employment and day programs. Given the complexity of these changes, I am requiring DSHS to work with clients, client advocates, and service providers to develop a plan that best implements these changes and program expansions.

For these reasons, I have vetoed sections 103, lines 10-11; 113, line 23; subsections 125(31); 125(34); 137(2); 137(4); 204(1)(h); 204(1)(k); 204(5)(c); 205(1)(a); 205(1)(j); 206(11); 207(1)(e); 207(1)(f); 207(1)(g); 207(1)(h); 207(1)(i); 207(1)(j); 207(1)(k); 207(1)(l); 207(1)(m); 207(1)(n); 221(2)(i); 308(18); 501(2)(b)(iii); 604(10); 605(4); section 606, lines 31-38, page 204; lines 1-3, page 205; subsections 607(1); 607(2); 608(1); 608(11); 609(2); and section 725; of Engrossed Substitute Senate Bill No. 6387.

With the exception of sections 103, lines 10-11; 113, line 23; subsections 125(31); 125(34); 137(2); 137(4); 204(1)(h); 204(1)(k); 204(5)(c); 205(1)(a); 205(1)(j); 206(11); 207(1)(e); 207(1)(f); 207(1)(g); 207(1)(h); 207(1)(i); 207(1)(j); 207(1)(k); 207(1)(l); 207(1)(m); 207(1)(n); 221(2)(i); 308(18); 501(2)(b)(iii); 604(10); 605(4); section 606, lines 31-38, page 204; lines 1-3, page 205; subsections 607(1); 607(2); 608(1); 608(11); 609(2); and section 725, Engrossed Substitute Senate Bill No. 6387 is approved.

Respectfully submitted,



Gary Locke
Governor

SSB 6389

C 29 L 02

Authorizing placement of United States flags on school buses.

By Senate Committee on Education (originally sponsored by Senators Benton, McAuliffe, Hewitt, Swecker, Roach, Morton, Haugen, Long, Stevens, McCaslin, Johnson, Snyder, Honeyford, Sheahan, Rossi, Rasmussen, Eide, Hale and Oke).

Senate Committee on Education
House Committee on Education

Background: Currently, the Superintendent of Public Instruction (SPI) has the authority to adopt and enforce rules governing the marking of school buses. Current rules specify the color and limit the signs and markings that may be on the exterior and interior of school buses.

Summary: The SPI must adopt rules which permit the display of the United States flag on all school buses. The rules must address the size and placement of the flag so that it does not interfere with the safe operation of the school bus.

Votes on Final Passage:

Senate	45	0
House	96	0

Effective: June 13, 2002

ESB 6396

PARTIAL VETO

C 238 L 02

Adopting a supplemental capital budget.

By Senators Fairley and Zarelli; by request of Governor Locke.

Senate Committee on Ways & Means
House Committee on Capital Budget

Background: Washington State is on a biennial budget cycle. The Legislature authorizes expenditures for capital needs in the capital budget for a two-year period, and authorizes bond sales through passage of a bond bill associated with the capital budget.

The current capital budget covers the period from July 1, 2001, through June 30, 2003.

Summary: Supplemental appropriations are made for the 2001-2003 biennium.

Votes on Final Passage:

Senate	47	2	
House	80	18	(House amended)
Senate	47	1	(Senate concurred)

Effective: March 28, 2002

Partial Veto Summary: Two sections of supplemental capital budget were vetoed. Section 104 which modified a governance study of the Burke Museum was vetoed. In addition, section 126(3) which provided an appropriation to "People for Salmon" from the Salmon Recovery Funding Board grant funds was vetoed.

VETO MESSAGE ON SB 6396

March 28, 2002

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 104 and 126(3), Engrossed Senate Bill No. 6396 entitled:

"AN ACT Relating to the capital budget;"

Section 104, page 4, Department of Community, Trade, and Economic Development

This section would have modified the appropriation from a governance study, yet to be completed, of the Burke Museum into a study to expand the museum. The governance study is important because it will identify alternative funding for a museum expansion. The amended language also authorized expenditures for preservation of museum collections (an operational expense). These funds were first appropriated for the Burke Museum in the 1999-2001 biennium, at which time I vetoed provisional language for a study of future expansion of the museum. It is inappropriate to forego the governance study and to fund preservation of collections with capital funds.

Section 126(3), page 18, Interagency Committee for Outdoor Recreation

This section would have provided a direct appropriation to People for Salmon (PFS) from Salmon Recovery Funding Board (SRFB) grant funds. The SRFB was designed to be an independent decision maker for the allocation of salmon recovery grants. A direct appropriation by the legislature intrudes upon SRFB autonomy and decision making as to which projects best aid in fish recovery and are most desirable to fund. A similar provision was vetoed last year for the same reasons. I add this special note regarding section 110, which I have allowed to stand. This section revises and increases funding for the Bremerton Readiness Center for the Military Department. These funds will construct additional classrooms to support an emergency services training center. While there are unique programmatic, geographic and interagency aspects of this project, proceeding with this project should in no way suggest concurrence or agreement with any future, state-financed emergency services training facilities.

For these reasons, I have vetoed sections 104 and 126(3) of Engrossed Senate Bill No. 6396.

With the exception of sections 104 and 126(3), Engrossed Senate Bill No. 6396 is approved.

Respectfully submitted,



Gary Locke
Governor

ESSB 6400

C 287 L 02

Developing a statewide biodiversity conservation strategy.

By Senate Committee on Natural Resources, Parks & Shorelines (originally sponsored by Senators Jacobsen, Oke, Kohl-Welles and Kline).

Senate Committee on Natural Resources, Parks & Shorelines

House Committee on Natural Resources

House Committee on Appropriations

Background: Biological diversity, or biodiversity, is the term used to describe the genetic differences within a species, the array of plants and animals, and the diversity of landscapes on which they depend. There are a number of programs in Washington, both state and non-governmental, that address the state's biodiversity. These programs include the state's Natural Heritage Program housed in the Department of Natural Resources, and the Priority Habitat and Species program of the Department of Fish and Wildlife. In addition, The Nature Conservancy of Washington is developing ecoregional plans to guide its conservation programs.

However, there is concern that existing programs are not well coordinated, and that there is no single entity responsible for development and implementation of a state biodiversity strategy.

Summary: The Interagency Committee for Outdoor Recreation must provide a grant for the review of biodiversity programs. The grant must be matched with an equal amount of funding from nonstate sources.

The grantee must convene a biodiversity conservation committee, consisting of representatives from state and federal agencies, local governments, tribes, property owners, business interests, academia, and non-governmental organizations. The committee must review existing biodiversity programs and develop recommendations for a state biodiversity strategy.

The purpose of a state biodiversity strategy is to maintain Washington's biodiversity in perpetuity. The biodiversity strategy must include a standing committee and lead agency to oversee the strategy; an integrated system of data management; public education, outreach, and technical assistance; and the identification of non-regulatory methods to preserve biodiversity.

The biodiversity conservation committee must identify the time frame and cost to implement the biodiversity strategy. The grantee must provide a final report of the review and recommendations of the biodiversity conservation committee to the Legislature by October 1, 2003.

Votes on Final Passage:

Senate	39	9	
House	55	41	(House amended)
Senate	36	9	(Senate concurred)

Effective: June 13, 2002

SB 6401

C 30 L 02

Standardizing references to county clerks.

By Senators Kline, Costa, Long, Fairley, Thibaudeau and Kohl-Welles.

Senate Committee on Judiciary

House Committee on Judiciary

Background: Clerks of superior courts are required to keep various records. Some references exist in the Washington State code to clerks being required to keep a "journal" or a "book." There is concern that this is archaic language and inaccurate because it does not reflect how records are kept now.

Current law requires all owners of federally assisted housing to serve a written notice of the anticipated expiration or prepayment date on each tenant household residing in the housing, and on the clerk of the city or county if in an unincorporated area. Proponents of this bill believe the direction to serve notice to the county clerk is incorrect and potentially confusing.

Summary: It is clarified that where current law requires county clerks to keep certain information, the information is entered into a "record" or in the form of a "record" rather than a "journal" or "book."

All owners of federally assisted housing must serve a written notice of the anticipated expiration or prepayment date on each tenant household residing in the housing, on the clerk of the city, or the clerk of the county legislative authority if in an unincorporated area.

Votes on Final Passage:

Senate	47	0
House	96	0

Effective: June 13, 2002

SSB 6402

C 126 L 02

Providing for legal financial obligation deductions from inmate funds and wages.

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Costa, Long, Thibaudeau and Kline).

Senate Committee on Human Services & Corrections

House Committee on Criminal Justice & Corrections

Background: A court ordered legal financial obligation (LFO) is a sum of money that is ordered by a superior court for payment of restitution to a victim, crime victims' compensation fee, court costs, a county or interlocal drug fund, court-appointed attorneys' fees and costs of defense, fines and any other legal financial obligation that is assessed as a result of a felony conviction. Taxes and LFOs must be deducted from inmate correctional industries wages.

The Secretary of the Department of Corrections is responsible for developing a formula for the distribution of offender wages and gratuities. The offender has deductions made from his or her wages which go to the following funds: public safety and education account (PSEA) for crime victims' compensation, personal savings, and cost of incarceration. Depending upon the type of employment (class I - IV industries), a minimum is set for each account.

Class I correctional industries are those programs in which private sector companies set up their businesses within a state corrections facility. Class II correctional industries are businesses owned and operated by the state, producing goods and services for tax supported and nonprofit organizations.

Summary: Legal financial obligations must be deducted from an inmate's gross wages or gratuities in addition to those deductions for PSEA, personal savings, and cost of incarceration, without exception. Whether employed in class I or class II industries, a minimum of 20 percent of the inmate's gross wages is deducted for payment of an LFO in any Washington State superior court. Inmates in state work release facilities must have 10 percent of their wages deducted for the same purpose.

Votes on Final Passage:

Senate 47 0
House 93 0

Effective: June 13, 2002

SB 6408

C 31 L 02

Restoring sex offender registration for nonfelony communication with a minor convictions.

By Senators Costa, Hargrove, Long, Kline, Zarelli, Johnson, Rasmussen and Oke.

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

Background: In 2001, the Legislature harmonized the definitions of sex offense in the criminal statute and the registration statute with regard to felony convictions. Certain gross misdemeanors also require registration. Communication with a minor for immoral purposes is a felony sex offense unless the person has no previous sex offense convictions, in which case it is a gross misde-

meanor. Prior to the change, communication with a minor for immoral purposes required registration for gross misdemeanor convictions. Following the change, these violations were no longer included in the registration statute.

Summary: Sex offenders convicted of communication with a minor for immoral purposes must register, even if the conviction is a gross misdemeanor.

Votes on Final Passage:

Senate 46 0
House 96 0

Effective: March 12, 2002

SSB 6409

C 323 L 02

Requiring an opportunity for a cure before an action on a construction defect may be filed.

By Senate Committee on Labor, Commerce & Financial Institutions (originally sponsored by Senators Prentice, Hargrove, Johnson, Rossi, Rasmussen, Honeyford, Gardner, Finkbeiner and Hale).

Senate Committee on Labor, Commerce & Financial Institutions

House Committee on Judiciary

Background: Contractors are required to carry liability insurance. They are facing increased costs for their insurance in part because insurers are concerned about the increased cost of construction defect litigation.

Summary: A claimant filing a construction defect suit must provide written notice to the construction professional 45 days before the suit is filed. The construction professional must respond within 21 days of the notice and may offer to remedy the defect, compromise by payment, or dispute the claim. If a suit is filed, the claimant must, within 30 days of commencement, list the construction defects alleged and the construction professional responsible for each defect. Newly discovered defects may be added to an existing lawsuit if the builder is given notice and 21 days to respond.

The serving of notices required by the act tolls any applicable statute of limitations or repose until 60 days after the end of the period of notice and opportunity for cure provided.

A condominium or homeowners' association filing a construction defect suit must notify all unit owners of the action and the expected expenses and fees accompanying it.

Votes on Final Passage:

Senate 41 0
House 93 0 (House amended)
Senate 45 0 (Senate concurred)

Effective: June 13, 2002

ESSB 6412

C 115 L 02

Regulating disclosure of information by international matchmaking organizations.

By Senate Committee on Labor, Commerce & Financial Institutions (originally sponsored by Senators Kohl-Welles, Costa, Prentice, Winsley, Long, Keiser and Benton).

Senate Committee on Labor, Commerce & Financial Institutions

House Committee on Commerce & Labor

Background: According to the Immigration and Naturalization Service, over 200 international matchmaking organizations operate in the United States. These organizations bring together approximately 4,000 to 6,000 couples yearly who marry and petition for immigration of the female spouse to the United States. This volume represents between 3 and 4 percent of the immigration of female spouses to this country and .4 percent of all immigration to the United States. Most of the female spouses come from the Philippines or from the newly independent states of the former Soviet Union.

The federal Illegal Immigration Reform and Immigrant Responsibility Act of 1996 provides that

international matchmaking organizations doing business in the United States must provide accurate information about immigration laws to prospective female spouses in their native language.

There is concern that some prospective female spouses using matchmaking organizations may lack accurate information about their prospective husbands. Without this information, they may not be aware of a man's criminal history, and may enter into marriage with a potentially violent spouse.

Summary: International matchmaking organizations must notify prospective spouses in foreign countries that background checks and marital history information on prospective Washington spouses is available upon request. The notice that background check and marital history information is available upon request must be in the recruit's native language, and must be displayed in a manner that separates it from other information in lettering at least one-quarter of an inch high.

If a prospective spouse in a foreign country requests this information from the matchmaking organization, the organization must notify the Washington resident of the request. The Washington resident must obtain background check information from the State Patrol, and must provide this information, as well as marital history information, to the organization.

The organization must then provide the information to the prospective spouse in the foreign country. Organizations must refrain from knowingly providing any further services to either prospective spouse until the

organization has received the required information and provided it to the prospective foreign spouse.

Violations of these laws are considered violations of the Consumer Protection Act.

Votes on Final Passage:

Senate	43	2	
House	93	0	(House amended)
Senate	43	2	(Senate concurred)

Effective: September 1, 2002

SB 6416

C 270 L 02

Allowing public utility districts to define the eligible group of low-income citizens to whom they may provide services at reduced rates.

By Senators Poulsen, Hewitt, Morton, Fraser, McAuliffe, Hale and Rasmussen.

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

Background: Under current law, all electric and gas utilities are authorized to provide services at discounted rates to their low-income senior citizen and other low-income customers.

Municipal utilities and public utility districts were first granted the authority in 1979 to offer discounts to low-income senior citizens. In 1988, the Legislature extended the authority to low-income disabled customers, and in 1998 expanded it again to include all low-income customers. Low-income rate discount programs must be approved by the governing bodies of the public utilities and must be available to all customers meeting the eligibility standards.

Municipal utilities may define income eligibility standards by resolution of their governing bodies, but public utility districts (PUDs) must use the income standards set in statute by the Legislature. For PUDs electing to offer rate discounts, low-income senior citizen discounts must be made available to all senior citizens who qualify for the senior citizen property tax exemption, and any other low-income rate discount program must be made available to all customers whose household income falls at or below 125 percent of the federal poverty level.

In 1999, the Legislature clarified that private, investor-owned electric and gas utilities (IOUs) are authorized to propose low-income utility discount programs to the Washington Utilities and Transportation Commission (WUTC). IOUs may define income eligibility standards in their proposals, and WUTC has authority to approve the proposals.

Summary: Definitions of "low-income senior citizen" and "other low-income citizen" are removed so that the

SB 6417

governing bodies of public utility districts may establish, by resolution, the income eligibility standards for their low-income utility rate discount programs.

Votes on Final Passage:

Senate 46 2
House 95 0

Effective: June 13, 2002

SB 6417

C 271 L 02

Regarding the filing of wills in superior court.

By Senator Johnson.

Senate Committee on Judiciary
House Committee on Judiciary

Background: There is concern that the wording of current law pertaining to the recording of wills leads people to believe the clerk of the superior court will accept wills of persons for "safe-keeping." This practice was common early in the 20th century.

Any person having custody or control of a will is required, within 30 days of receiving knowledge of the death of the testator, to deliver the will to the court having jurisdiction or to the person named in the will as executor. Wills are filed after a filing fee of \$20 is paid and then it is assigned a case number.

Summary: Wills filed with the clerk of the superior court are noted by the clerk in a record of wills. A court order is required before they can be withdrawn from the record.

Votes on Final Passage:

Senate 48 0
House 93 0

Effective: June 13, 2002

SSB 6422

C 32 L 02

Defining "property of another" for purposes of crimes against property.

By Senate Committee on Judiciary (originally sponsored by Senators Costa and McCaslin).

Senate Committee on Judiciary
House Committee on Criminal Justice & Corrections

Background: One of the elements of malicious mischief, as it is currently defined in Washington law, involves causing physical damage to the property of another. The malicious mischief statute contains no definition of "property of another."

In a recent Washington case, *State v. Coria*, the defendant was convicted of malicious mischief for

destroying property belonging to his wife and himself. The Court of Appeals, Division Two, reversed the conviction holding that co-owned, co-possessed community property does not constitute "property of another" for purposes of the malicious mischief statute. The court stated "... from a plain reading of the statute it is impossible to tell whether the legislature meant 'exclusively the property of another' or 'partially the property of another.'" It concluded the statute is ambiguous and the question of whether it should be a crime to destroy property equally co-owned and co-possessed by another is a determination for the Legislature.

Courts in California, Illinois, and Iowa have held that criminal charges are viable when one spouse damages jointly owned marital property. The term "property of another" or a similar term was determined to include any property in which the defendant had anything less than exclusive ownership.

Summary: For purposes of the arson, reckless burning, and malicious mischief chapter, the term "property of another" means property in which the actor possesses anything less than exclusive ownership.

Votes on Final Passage:

Senate 49 0
House 97 0

Effective: March 12, 2002

SSB 6423

C 107 L 02

Clarifying how criminal history should be used in sentencing decisions.

By Senate Committee on Judiciary (originally sponsored by Senators Costa and McCaslin).

Senate Committee on Judiciary
House Committee on Criminal Justice & Corrections

Background: Provisions within the Sentencing Reform Act (SRA) have been amended nearly every year since it was enacted. In 1999, the Washington Supreme Court held that a 1990 amendment eliminating sex offenses from the washout provisions applied prospectively only. The court stated that legislative intent for retroactive application must be clearly found within the statute's language. In response, the Legislature passed a separate section in the SRA simply stating that "any sentence imposed under this chapter shall be determined in accordance with the law in effect when the offense was committed." In *State v. Smith*, 144 Wn.2D 665 (2001), the Washington Supreme Court found this language insufficient to express an explicit legislative command that a 1997 amendment to the SRA, providing that all prior juvenile adjudications are included in a defender's criminal history, must be used when sentencing offenders for current crimes.

Summary: It is clearly stated that the intent of the Legislature is to provide that an offender's criminal history and offender score are determined using the statutory provisions that are in effect on the day the current offense was committed. The definition of "criminal history" is amended to explicitly provide that a conviction may only be removed if it is vacated, that the determination of a defendant's criminal history is distinct from the determination of the offender's score, and that a prior conviction not included in the offender score under a prior version of the SRA remains part of the offender's criminal history.

Additionally, it is clearly stated that the fact that a prior conviction was not included in an offender's score or criminal history at a prior sentencing must have no bearing on whether it is included in the criminal history or offender score for the current offense. Prior convictions not counted in the offender score or included in the criminal history under repealed or previous versions of the SRA must be included in a criminal history and must be counted in the offender's score if the current version of the SRA requires their inclusion.

Votes on Final Passage:

Senate	48	0
House	93	0

Effective: June 13, 2002

SB 6425
C 36 L 02

Authorizing access to school meal programs and kitchen facilities.

By Senators McAuliffe, Carlson, Fairley, Kohl-Welles and Winsley.

Senate Committee on Education
House Committee on Education

Background: Under current law, school districts may operate lunchrooms for students and staff and for school or employee functions. However, expenditures for food supplies may not exceed estimated revenues.

Additionally, school districts may furnish meals at cost to the elderly, private school students, and children participating in educational activities conducted by non-profit organizations.

Summary: School districts may expand the access to their meal programs to include serving (1) volunteers, (2) public agencies or associations that serve public entities while using school facilities, and (3) other child nutrition programs.

Votes on Final Passage:

Senate	48	0
House	85	11

Effective: June 13, 2002

SSB 6426
C 243 L 02

Allowing sick leave to care for family members.

By Senate Committee on Labor, Commerce & Financial Institutions (originally sponsored by Senators Keiser, Winsley, Prentice, Franklin, Thibaudeau and Kohl-Welles).

Senate Committee on Labor, Commerce & Financial Institutions
House Committee on Commerce & Labor

Background: Federal and state laws provide for unpaid family leave, to enable employees to care for family members. Federal law, the Family and Medical Leave Act of 1993 (FMLA), provides for up to 12 weeks of unpaid, job-protected leave for eligible employees who have worked for at least one year for a covered employer. State law is more limited in scope, providing employees the right to return to a workplace within 20 miles of their original one, and clarifying that employees may use FMLA leave for sickness or temporary disability related to pregnancy or childbirth.

Washington State also has a family care law, allowing an employee to use accrued sick leave to care for a child under 18 with a health condition that requires treatment or supervision.

Numerous studies over the past several years have shown an increased concern in the workplace for how to deal with employees with family situations that demand extra attention. Balancing these "work-life" issues has become a controversial area of modern life, with many different approaches explored by workers and employers.

Summary: Employees' use of sick leave includes the use of sick leave or other paid leave to care for a spouse, child, parent, parent-in-law, or grandparent with a health condition requiring treatment or supervision, or for emergency purposes.

Employers must allow use of sick leave, vacation or personal holiday to which the employee is entitled. Leave must comply with collective bargaining agreement terms or with employers' policies except for the terms relating to choice of type of leave. Leave may not be taken in advance of being earned.

For purposes of the law, "child" means a biological, adopted, foster or stepchild or legal ward under 18, or a child older than 18 and incapable of self-care. "Parent" means a biological parent or someone who was "in loco parentis" to the employee when the employee was a child. "In loco parentis" is a legal term of art meaning a person or entity that stands in place of a parent.

Employers may not discharge, threaten to discharge, demote, suspend, discipline or discriminate against employees who exercise their rights to family leave under this law.

ESSB 6428

Votes on Final Passage:

Senate 38 10
House 96 0 (House amended)
Senate 41 4 (Senate concurred)

Effective: January 1, 2003

ESSB 6428

C 333 L 02

Providing for loss prevention review teams.

By Senate Committee on Judiciary (originally sponsored by Senators B. Sheldon, Johnson, Kline, Costa, McCaslin, Gardner, Long and Kohl-Welles; by request of Governor Locke and Attorney General).

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

Background: During the 2001 interim, the Governor and Attorney General sponsored a Risk Management Task Force in response to increasing attention to incidents of severe harm to citizens and the increasing liability of the state for injuries and losses. The purpose of the task force was to identify how the state can deliver its difficult and risky programs and services in a way that better protects citizens of the state from harm or injury.

The Risk Management Task Force issued a number of recommendations in its final report. One of the recommendations of the task force was to require agencies to conduct post-incident reviews that would provide recommendations on how to avoid or reduce losses in the future.

Summary: Whenever the death or serious injury of a person, or other substantial loss, is alleged or suspected to be caused in part by the actions of a state agency, the director of the Office of Financial Management (OFM) must appoint a loss prevention review team, unless the director determines the incident does not merit review. A loss prevention review team may also be appointed by the director of OFM if agency policies, management practices, or litigation practices result in a substantial loss.

The loss prevention review team must review the incident, evaluate its causes, and recommend steps to reduce the risks of such incidents. The final report of a loss prevention review team must be made public by the director. The final report is subject to discovery in a civil or administrative proceeding. However, the final report, and any documents prepared by or for the loss prevention review team, are not admissible in a civil proceeding except for the purpose of impeaching a witness.

A member of a loss prevention review team may not be examined in a civil proceeding as to the work of the team or the incidents reviewed by the team. A person may testify in a separate civil proceeding even if the

person has testified before a review team. However, the person may not be examined as to his or her interactions with the review team.

An agency must respond to a final report of the loss prevention review team, within 120 days, indicating which of the report's recommendations the agency hopes to implement, whether implementation requires additional funding or legislation, and other information the director may require.

Votes on Final Passage:

Senate 48 0
House 89 4 (House amended)
Senate 46 0 (Senate concurred)

Effective: June 13, 2002

SB 6429

C 334 L 02

Regulating the admissibility of benevolent gestures in civil actions.

By Senators B. Sheldon, Johnson, Kline, Costa, McCaslin, Gardner, Long and Winsley; by request of Governor Locke and Attorney General.

Senate Committee on Judiciary
House Committee on Judiciary

Background: During the 2001 interim, Governor Locke and Attorney General Gregoire sponsored a Risk Management Task Force in response to increasing attention to incidents of severe harm to citizens and the increasing liability of the state for injuries and losses. The purpose of the task force was to identify how the state can deliver its difficult and risky programs and services in a way that better protects citizens of the state from harm or injury and that engages in the most effective risk management possible. The task force was comprised of a number of groups, including the Attorney General, legislators, agency directors and budget officials, risk managers, attorneys, and advisors from the University of Washington.

The Risk Management Task Force issued a number of recommendations in its final report. One of the recommendations of the task force is that an agency involved in a loss should consider visiting victims and their family members to express regret for the loss and consider offering services that might aid them in dealing with the loss.

Under state evidence laws, a statement of regret from an agency involved in a civil action would generally be admissible in the action since a statement by a party to a suit is admissible in court as long as it is relevant and not subject to a specific exclusion.

Summary: Statements, writings or benevolent gestures made to a person or the person's family that express sympathy or benevolence relating to the pain, suffering or

death of the person involved in an accident are inadmissible as evidence in a civil action. A statement of fault is not made inadmissible under this provision.

Votes on Final Passage:

Senate 46 0
House 90 3

Effective: June 13, 2002

SB 6430

C 35 L 02

Authorizing issuance of high school diplomas to World War II veterans who were both honorably discharged and left high school before graduation to serve in World War II.

By Senators Zarelli, McAuliffe and Oke.

Senate Committee on Education
House Committee on Education

Background: Under current law, local school districts must issue high school diplomas to students who have successfully completed all state and local graduation requirements.

Summary: 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 must specify the evidence requirements necessary to prove eligibility for the diploma.

Votes on Final Passage:

Senate 45 0
House 97 0

Effective: June 13, 2002

SSB 6439

C 335 L 02

Protecting certain domestic security records.

By Senate Committee on State & Local Government (originally sponsored by Senators Gardner, Haugen, McCaslin and Winsley; by request of Governor Locke and Attorney General).

Senate Committee on State & Local Government
House Select Committee on Community Security
House Committee on Appropriations

Background: It has been argued that the events of September 11, 2001, have focused our nation's attention on the importance of preparedness in preventing, investigating, and prosecuting acts of terrorism. To further that effort, some have argued that certain records should be exempt from public inspection and copying.

Summary: The following records are exempt from public inspection and copying: those portions of records assembled, prepared, or maintained to prevent mitigate, or respond to criminal terrorist acts, which are acts that significantly disrupt the conduct of government or of the general civilian population of the state or the United States and that manifest an extreme indifference to human life, the public disclosure of which would have a substantial likelihood of threatening public safety, containing: (1) specific and unique vulnerability assessments or specific and unique response or deployment plans, including compiled underlying data collected in preparation of or essential to the assessments, or the response or deployment plans; (2) records not subject to public disclosure under federal law that are shared by federal or international agencies, and information prepared from national security briefings provided to state or local government officials related to domestic preparedness for act of terrorism.

Also exempt from public inspection and copying is information regarding the infrastructure and security of computer and telecommunications networks, consisting of security passwords, security access codes and programs, access codes for secure software applications, security and service recovery plans, security risk assessments, and security test results to the extent that they identify system vulnerabilities.

The Joint Legislative Audit and Review Committee must review the effect of the exemptions on state agency performance in responding to requests for disclosure and report its findings to the Legislature no later than November 30, 2004.

Votes on Final Passage:

Senate 44 4
House 94 1 (House amended)
House 92 3 (House reconsidered)
Senate (Senate refused to concur)
House (House refused to recede)
Senate 38 11 (Senate concurred)

Effective: June 13, 2002

ESSB 6449

C 63 L 02

Allowing entrance and exit fees under limited circumstances.

By Senate Committee on Labor, Commerce & Financial Institutions (originally sponsored by Senator Kastama).

Senate Committee on Labor, Commerce & Financial Institutions

House Committee on Local Government & Housing

Background: The law specifies certain items that cannot be part of a mobile home landlord-tenant rental

ESB 6456

agreement. These items include a landlord charging entrance and exit fees to a park.

Continuing care retirement communities offer multi-year shelter along with nursing, medical, health-related, or personal care services. These services are sometimes conditioned upon the payment of an entrance fee by tenants. Some organizations would like to become continuing care retirement communities, but the owners of these communities are currently prohibited from collecting entrance fees from mobile home residents.

Summary: Mobile home landlords are allowed to charge entrance and exit fees if these fees are specified in a continuing care contract.

Votes on Final Passage:

Senate	45	0
House	93	0

Effective: June 13, 2002

ESB 6456

C 37 L 02

Authorizing the academic achievement and accountability commission to set performance improvement goals for certain disaggregated groups of students and dropout goals.

By Senators McAuliffe, Finkbeiner, Kohl-Welles, Winsley and Keiser; by request of Governor Locke, Superintendent of Public Instruction, Washington State School Directors Association, A+ Commission and State Board of Education.

Senate Committee on Education
House Committee on Education

Background: In 1999, the Legislature gave the Academic Achievement and Accountability Commission the authority to adopt, in rule, student performance improvement goals in reading, mathematics, writing and science. Prior to implementing any new goal, the commission must present the goal to the Legislature for review and comment.

Summary: Student performance improvement goals adopted by the commission must not conflict with the 2002 re-authorization of the Elementary and Secondary Education Act. The goals may be established for all students, for economically disadvantaged students, limited English proficient students, students with disabilities, and students from racial and ethnic backgrounds that are disproportionately underachieving academically. The results of schools and districts that test fewer than ten students in a grade level are not reported to protect the privacy of the students.

The commission may also establish school and school district goals addressing high school graduation rates and dropout reduction goals for students in grades seven through 12.

Votes on Final Passage:

Senate	49	0
House	97	0

Effective: June 13, 2002

SB 6457

C 131 L 02

Adopting the uniform athlete agents act.

By Senators Carlson and Jacobsen.

Senate Committee on Labor, Commerce & Financial
Institutions

House Committee on Commerce & Labor

Background: Agents who attempt to secure professional athletic or endorsement contracts for college athletes are currently not regulated in Washington. There is concern that some college athletes may sign contracts without understanding that their ability to compete at the collegiate level may be jeopardized. There is also concern that educational institutions may lack effective remedies under current law to recover damages as a result of a college athlete turning professional.

Summary: If an agent initiates contact with a college athlete, she/he must provide the athlete with a disclosure form within seven days. The disclosure form must include information about the agent's business operations, including any disciplinary sanctions that have been imposed upon the agent. If an athlete is not provided with this disclosure form within seven days, any contract signed by the athlete is null and void.

Agents must provide student athletes with a contract. Required elements of the contract are specified, including a description of any expenses the student athlete agrees to pay and a disclaimer that athletes may lose their eligibility to compete as a student if they sign the contract. A student athlete may cancel a contract within 14 days after the contract has been signed. Agents must retain records of their business practices for five years.

At least 72 hours prior to signing a contract, and within 72 hours after signing a contract, both the student athlete and the agent must notify the athletic director of the student's educational institution, and must provide the athletic director with a copy of the agent's disclosure form.

No person can be an agent in this state if she/he has been convicted of a felony or other crime involving moral turpitude, has had his or her license suspended by another state, or if his or her behavior has resulted in sanctions to an athlete or an educational institution. In addition, no person may be an agent in this state if they engage in any other prohibited activities specified.

Acts prohibited are class C felonies and are also punishable by a civil penalty of up to \$10,000. An educational institution has a right of action against an athlete

agent or a former student athlete if the institution is damaged by the agent or athlete's conduct. "Damage" includes being penalized or suspended from participation in athletics by a national athletic association or conference as a result of the agent or athlete's actions.

Family members of the athlete or agents acting solely on the behalf of a professional sports organization are not considered to be agents for the purposes of the bill.

Votes on Final Passage:

Senate	48	0	
House	97	0	(House amended)
Senate	47	0	(Senate concurred)

Effective: June 13, 2002

SB 6460
C 38 L 02

Funding local government research services.

By Senators Haugen and Horn.

Senate Committee on State & Local Government
House Committee on Local Government & Housing

Background: Each quarter the Office of the State Treasurer distributes money from the liquor revolving and excise tax funds to the counties, incorporated cities, and towns of Washington State. Part of those distributions are transferred into special accounts created specifically for county research services and city and town research services. Currently, the accounts must have a zero cash balance at the end of each quarter in order to receive the next quarter's full allotment. Because of accounts receivable and the timing of other expenditures, the cash balance may not be zero at the end of each quarter; thus, the full quarterly allotment may not be transferred to the research services accounts.

Summary: The treasurer must distribute the full quarterly allotment to the research services accounts, regardless of any cash balance. All unobligated monies remaining in the accounts at the end of the fiscal biennium must be distributed by the treasurer to the counties, incorporated cities, and towns of the state in the same manner as the distribution from the liquor excise tax fund and the liquor revolving fund.

The months during which the treasurer must distribute liquor revolving funds into the city and town research services account are changed to June, September, December, and March (rather than July, October, January, and April).

Votes on Final Passage:

Senate	42	0
House	97	0

Effective: June 13, 2002

SSB 6461
C 272 L 02

Strengthening procedures for disqualification of drinking or drugged commercial drivers.

By Senate Committee on Transportation (originally sponsored by Senators Gardner, Benton, Haugen, Horn, Jacobsen, Costa, Oke and Winsley).

Senate Committee on Transportation
House Committee on Transportation

Background: Since 1996, commercial motor carriers have been required by federal law to implement a drug and alcohol testing program for their drivers. Fifty percent of a carrier's drivers must be tested for drugs and 25 percent for alcohol each year. Some drivers whose drug or alcohol tests are positive, or who fail a pre-employment drug or alcohol test, simply look for new employment with another motor carrier. The new employer is unsuspecting about the driver's potential drug or alcohol problem.

To protect a motor carrier and the public from a driver who hides his or her positive drug or alcohol test, a task force of interested parties (legislators, Department of Licensing (DOL), the trucking industry, the Teamsters Union, the Motor Carriers Division of the Federal Highway Administration, Department of Social and Health Services (DSHS)) met to discuss legislation. This bill is the result of those discussions.

Summary: All medical review officers (MRO) and breath alcohol technicians (BAT) under contract with a motor carrier to conduct drug or alcohol testing must provide positive results on commercial drivers directly to DOL. If a motor carrier does not have this condition in its contract with a MRO or BAT, DOL fines the carrier.

Any drivers who want to challenge the positive alcohol or drug results are entitled to a hearing. The hearing is limited to the following issues: whether the driver is the person who took the test; whether the carrier has a testing program that meets federal law; whether the MRO or BAT accurately followed the testing protocols; and to provide evidence that the test was a false positive.

DOL disqualifies commercial drivers who fail the drug or alcohol test. The employer of a driver who has refused to submit to a required drug or alcohol test is permitted to notify law enforcement or his or her medical review officer or breath alcohol technician. The disqualification remains in effect until the driver presents evidence of satisfactory participation in or completion of a drug or alcohol program certified by DSHS. DOL reinstates the commercial driver's license once it receives a drug and alcohol assessment and evidence of satisfactory participation in, or completion of any required drug or alcohol treatment program.

ESSB 6464

Votes on Final Passage:

Senate 47 0
House 96 0 (House amended)
Senate 46 0 (Senate concurred)

Effective: June 13, 2002

ESSB 6464 PARTIAL VETO C 248 L 02

Authorizing the creation of a city transportation authority.

By Senate Committee on Transportation (originally sponsored by Senators Jacobsen, Horn and Kohl-Welles).

Senate Committee on Transportation
House Committee on Transportation

Background: The original monorail runs for a mile between the Seattle Center and downtown Seattle. In 1997, voters in the city of Seattle approved a study of an expanded monorail system. In 2000, voters approved an initiative for the Elevated Transportation Company to develop a monorail expansion plan, which included \$6 million in funding. The city of Seattle also has a bus service that is run by King County Metro.

Summary: A city with a population over 300,000 can create a city transportation authority to perform a public monorail transportation function if a majority of voters within the city approves it. The authority can acquire public transportation facilities and may lease, construct, add to, improve, replace, repair, maintain, operate, and regulate the use of monorail facilities. It is authorized to fix rates, tolls, fares, and charges for the use of the monorail and may establish routes and classes of service. The authority area may not extend beyond the city and may be dissolved by a referendum of city voters if the authority is faced with significant financial problems.

The authority adopts a public transportation plan which must be approved by the city council and voters within the boundaries of the authority area.

To pay for and to implement the plan, the city public transportation authority may levy excess levies on property and issue revenue and general obligation bonds. A number of the following taxes must also be approved by voters:

- An excise tax on the value of motor vehicles within the city not exceeding 2.5 percent.
- A sales and use tax on retail car rentals within the city not exceeding 1.944 percent of the base of the tax, if the motor vehicle excise tax is implemented.
- A vehicle relicensing tax not exceeding \$100 for each car within the city.

- Annual property tax levies of \$1.50 or less per thousand dollars of property value, in addition to existing property taxes.

If a regional transportation act is not enacted by December 31, 2002, this legislation is null and void; therefore, a city transportation authority could not be established.

Votes on Final Passage:

Senate 26 23
House 90 6

Effective: June 13, 2002

Partial Veto Summary: The Governor vetoed sections: (1) requiring the city transportation authority to adopt a public transportation plan; (2) requiring the plan and any amendments adopted by the authority to be submitted for approval to the legislative authority of the city; (3) requiring public hearings to be held to allow public participation in the development of the plan; (4) requiring the plan or amendments to be effective either upon approval by the city legislative authority or upon the passage of 90 days in which the city legislative authority neither approved nor disapproved the plan or amendment; (5) requiring qualified voters in the authority area to vote on the plan after approval or inaction after 90 days by the city legislative authority; and (6) requiring the regional transportation act to become law by December 31, 2002 in order for this legislation to be enacted.

VETO MESSAGE ON SB 6464-S

March 29, 2002

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 7 and 18, Engrossed Substitute Senate Bill No. 6464 entitled:

"AN ACT Relating to city transportation authority;"

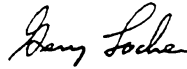
This bill will allow the voters of Seattle to decide if they want to impose taxes to pay for a monorail system.

Section 7 of the bill contained a drafting error that would have inadvertently required two public votes, rather than one. Because sections 2, 9, 10, and 11 all ensure a public vote, vetoing this section will not affect the requirement of voter approval. This section also included language requiring a plan and public hearings; however, section 3 and other parts of the bill provide sufficient opportunities for the city council to ensure an open, public process and careful consideration of any monorail plan.

Section 18 would have rendered the entire bill null and void if a 'regional transportation act does not become law by December 31, 2002.' On March 21, 2002, I signed into law a regional transportation act, Engrossed Second Substitute Senate Bill No. 6140, making section 18 moot. Vetoing the moot section will help reduce confusion.

For these reasons, I have vetoed sections 7 and 18 of Engrossed Substitute Senate Bill No. 6464.

*With the exception of sections 7 and 18, Engrossed Substitute Senate Bill No. 6464 is approved.
Respectfully submitted,*



Gary Locke
Governor

SB 6465
C 141 L 02

Revising limitations on county auditors.

By Senators Carlson, Gardner and Benton.

Senate Committee on State & Local Government
House Committee on Local Government & Housing

Background: The county auditor and any deputy appointed by him or her may not perform the duties of any other county officer or act as deputy for any other county officer. No other county officer or his or her deputy may act as auditor or deputy or perform any of the duties of the office of county auditor.

Summary: The prohibition is eliminated on county auditors and their deputies from performing the duties of any other county officer or his or her deputy. The prohibition is also eliminated on any other county officer and his or her deputy from performing the duties of the county auditor or his or her deputy.

Votes on Final Passage:

Senate	48	0	
House	89	4	(House amended)
Senate	45	1	(Senate concurred)

Effective: June 13, 2002

SB 6466
C 168 L 02

Modifying county treasurer administration provisions.

By Senators Gardner and Swecker.

Senate Committee on State & Local Government
House Committee on Local Government & Housing

Background: The local governmental offices of auditor, treasurer and assessor operate under the authority of precise and detailed statutes concerning the various aspects of receiving, processing, and disbursing money. Because, of necessity, they interact with the public on a daily basis, needless redundancies, inadequate notification procedures, technical discrepancies in the division of responsibility among the three offices, and other matters that could be stated more clearly in the law, come to their attention.

Summary: Notification requirements for foreclosure for delinquent local improvement assessments are clarified. The current rolls of both the assessor and treasurer must be checked so that notices of foreclosure are sent to any different addresses for the owner or taxpayer, if indicated.

The records of the county assessor must provide the list of owners of record for purposes of petitions initiating local improvement districts and utility local improvement districts. The treasurer's authority to grant an exception to the requirement for public officers and employees to deposit payments within 24 hours of receiving them is limited. Concerns for safekeeping are addressed. No exception can provide for more time between receipt and deposit than one week.

Requirements for trip permits for park model trailers must be the same as for mobile homes and may only be issued if property taxes are paid in full.

Property that is subdivided into two or more lots must have its property taxes and assessments paid in full except when the property is being acquired by a government for public use.

When someone with no legal interest in land mistakenly pays the property taxes for the land, the county treasurer must refund the payment but not any interest on the refund.

Votes on Final Passage:

Senate	47	0	
House	96	1	(House amended)
Senate	42	1	(Senate concurred)

Effective: June 13, 2002

SB 6469
C 39 L 02

Authorizing release of mental health services information to department of corrections.

By Senators Long, Costa, Hargrove and Winsley; by request of Department of Corrections, Indeterminate Sentence Review Board and Department of Social and Health Services.

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

Background: In 2000, the state enacted Engrossed Substitute Senate Bill 6487, which provided authority to permit information sharing between the Department of Corrections (DOC), the Department of Social and Health Services and mental health treatment providers. The purpose was to plan for and provide offenders treatment, transition and supervision services and to better provide public safety. In that act, DOC was authorized to provide information to the Indeterminate Sentence Review Board (ISRB).

SB 6471

Summary: Information related to mental health services for persons subject to supervision by the ISRB is included in the information sharing provisions and must be released to DOC.

Votes on Final Passage:

Senate	44	0
House	97	0

Effective: June 13, 2002

SB 6471
PARTIAL VETO
40 L 02

Requiring labeling of the origin of fruits and vegetables grown in the United States or grown in Washington state.

By Senators Honeyford, Rasmussen, Johnson, Sheahan, Stevens, Swecker, Shin, Parlette, Deccio, McCaslin, Hochstatter, Gardner, Hewitt, Spanel, Kastama, Regala, Eide, Oke, Hale and Keiser.

Senate Committee on Agriculture & International Trade
House Committee on Agriculture & Ecology

Background: Some states have enacted labeling requirements for fresh fruits and vegetables.

Summary: Stores and other businesses offering fresh fruit and vegetables for retail sale must place a placard on the bin, shelf or other location where the product is displayed that informs the consumer if it was either grown in the United States or grown in Washington.

Placards are not required if the product was grown outside of the United States, or if each item in the bin or shelf contains a sticker or label that indicates where the fruit or vegetable was grown.

The Department of Agriculture is designated as the enforcing agency. The department issues a warning for the first violation, a civil fine of up to \$250 for a second violation at the same location and in the same calendar year, and a civil fine of up to \$1,000 for a third or subsequent violation at the same location in the same calendar year.

Votes on Final Passage:

Senate	46	0
House	87	9

Effective: June 13, 2002

Partial Veto Summary: The Governor vetoed provisions that establish penalties for failing to comply with the requirements of the act.

VETO MESSAGE ON SB 6471

March 14, 2002

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 subsection 3, Senate Bill No. 6471 entitled:

“AN ACT Relating to labeling of agricultural products by place of origin.”

Senate Bill No. 6471 requires grocery stores or other businesses offering fresh fruit and vegetables to either display a placard near the produce stating if it was 'Grown in the United States' or 'Grown in Washington,' or to label each piece of produce individually. Subsection 3 of the bill would have allowed a retailer failing to do so to be fined up to \$250 on the second violation and up to \$1000 on the third violation in a calendar year.

I agree with the intent of the bill, which is to reveal the origin of produce to consumers. However, the penalties established in subsection 3 of the bill are excessive. Subsection 3 would normally be a separate section, and even refers to itself as a section. For these and other reasons, it is subject to veto.

For these reasons, I have vetoed subsection 3 of Senate Bill No. 6471.

With the exception of subsection 3, Senate Bill No. 6471 is approved.

Respectfully submitted,



Gary Locke
Governor

SSB 6481

C 273 L 02

Regulating insurance for rental vehicles.

By Senate Committee on Labor, Commerce & Financial Institutions (originally sponsored by Senators Prentice and Winsley).

Senate Committee on Labor, Commerce & Financial Institutions

House Committee on Financial Institutions & Insurance

Background: The Office of the Insurance Commissioner regulates the licensing of agents, brokers, solicitors, and adjusters within the insurance industry. Such insurance professionals must be licensed in accordance with specific statutory criteria, and may not engage in insurance marketing activities without the requisite license.

Some rental car companies in Washington currently offer short-term insurance to their customers. Rental car companies usually have group policies with out-of-state insurers, and are currently not regulated by the Insurance Commissioner.

Summary: The Insurance Commissioner is authorized to issue a limited license to rental car companies. A limited license allows rental car companies to sell personal accident, liability, personal effects, roadside assistance, and emergency sickness insurance.

Licensure Requirements. The limited license permits a rental car company to sell insurance provided: the vehicle rental is for 30 days or less; written materials offered to customers meet specified requirements and have been approved by the Insurance Commissioner; the cost of the insurance is itemized in the bill; and customers indicate in writing that they have received the required written materials.

An insurance company providing insurance to a rental car company must certify that: the rental car company is trustworthy and competent; the insurer has reviewed the endorsee training and education program and believes that it satisfies the statutory requirements; and the insurer guarantees that the rental car company will be appointed to act as its agent if licensed by the Insurance Commissioner.

Training Requirements. Rental car companies offering insurance under this license are required to train all employees before the employees offer insurance to the public. The syllabus for the training program must be approved by the Insurance Commissioner and the company must annually certify that the required training has been provided.

Prohibited Activities. Rental car companies are prohibited from: offering a commission on the sale of the insurance; offering any insurance that is not related to the rental vehicle; providing advice to customers regarding the adequacy of their existing insurance; and issuing any statement that would lead a customer to believe that the insurance being offered does not duplicate the customer's current policies.

Enforcement Provisions. Provisions concerning enforcement procedures are included. Under specified conditions, the commissioner may revoke, suspend, refuse to issue, or refuse to renew a license.

Miscellaneous Provisions. The Insurance Commissioner is authorized to set fees to defray the cost of administering the program.

The Insurance Commissioner is required to report back to the Legislature on the impact of this program on small businesses by January 1, 2004.

Votes on Final Passage:

Senate	43	0	
House	96	1	(House amended)
Senate	47	0	(Senate concurred)

Effective: June 13, 2002

SB 6482

C 64 L 02

Removing time limits for treatment under the alcohol and drug addiction treatment and support act.

By Senators Long, Hargrove, Winsley, Haugen, Stevens, Deccio and Rasmussen.

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

Background: The Alcohol and Drug Treatment and Support Act authorizes the Department of Social and Health Services to provide, within available funds, alcohol and drug treatment including employment assistance and a living allowance while undergoing outpatient treatment to certain clients who are not eligible for other services. The act contains a service limit of six months in any two-year period. The department may make exceptions to the six-month limit and allow additional treatment and additional living allowance within available funds.

Summary: The six-month limitation on services is removed.

Votes on Final Passage:

Senate	48	0
House	93	0

Effective: June 13, 2002

SB 6483

C 65 L 02

Regulating securities.

By Senators Prentice and Winsley; by request of Department of Financial Institutions.

Senate Committee on Labor, Commerce & Financial Institutions
House Committee on Financial Institutions & Insurance

Background: The National Conference of Commissioners on Uniform State Laws (NCCUSL) studies and develops drafts of recommended legislation that states may then choose whether to adopt. Recently, NCCUSL published a draft "Uniform Securities Act" (USA).

The Washington State Department of Financial Institutions (DFI) is the executive agency responsible for enforcement of securities laws, and protection of consumers and investors. DFI requested enactment of some of the recommendations in the NCCUSL Uniform Securities Act.

Summary: Technical changes in the definition of "securities" comply with recent case law and allow the Department of Financial Institutions to reach the sale of variable annuities. DFI regulates sales practices regarding variable annuities, while regulation of variable annuities products remains with the Office of the Insurance

Commissioner. Technical changes also include language prohibiting unethical conduct by investment advisors.

DFI's ability to regulate investment advisors, broker-dealers and others is expanded to coordinate with the Uniform Securities Act, including expansion of the look-back period for past convictions of investment advisors from five years to ten years. Conditions subjecting investment advisors to potential disciplinary action are added.

Access by DFI to certain National Crime Information Center (FBI) data bases for investigation of criminal activity is permitted.

DFI is allowed to enforce its own subpoenas and direct financial institutions not to disclose the existence and contents of a subpoena to third parties, other than the institution's legal counsel.

Other technical changes are made to coordinate with existing statutes.

Votes on Final Passage:

Senate 45 0
House 93 0

Effective: June 13, 2002

SB 6484

C 66 L 02

Authorizing additional trust authority to take advantage of federal estate tax benefits for conservation easements.

By Senators Haugen, Swecker, Rossi, Regala, B. Sheldon, Finkbeiner, T. Sheldon, Kastama, Jacobsen, Rasmussen, Winsley and Johnson.

Senate Committee on Judiciary
House Committee on Judiciary

Background: A conservation easement is a voluntary donation of an interest in real property by a landowner to a qualified private nonprofit entity or to a unit of government. If qualified under federal tax law, such a donation may result in reduced federal estate tax on the estate of which the real property is a part.

A conservation easement may include all or part of an owner's interest in the land. To qualify under the federal tax code, several requirements must be met. For example, the donation of the interest must be in perpetuity, and the donation must be for a "conservation purpose" as defined by the code. Generally, allowable conservation purposes include preservation of land for:

- outdoor recreation or education for the general public;
- protection of natural habitat; or
- open space for scenic or other purposes if it will significantly benefit the public.

There is no specific authority in state law for a trustee of a decedent's estate to donate real property to a conservation easement.

Summary: A trustee may donate a conservation easement in order to qualify for federal estate tax exclusion or deductions. The donation may be made only if the donation will not make the estate insolvent, and, if the trust instrument does not allow the donation, every affected beneficiary of the trust has agreed to the donation.

Votes on Final Passage:

Senate 45 0
House 93 0

Effective: June 13, 2002

SSB 6488

C 118 L 02

Creating a statewide registered sex offender web site.

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Costa, Long, T. Sheldon, Eide, Winsley, Hale, Spanel, Jacobsen, Rasmussen, Gardner and Oke).

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

Background: Community notification of level II and level III sex offenders can be provided through newspaper notices, flyers, and information kept at a sheriff's department or police department. A public web site can be used in addition to current community notification procedures to provide citizens with relevant and necessary information for protection and to counteract danger created by a particular sex offender.

Summary: The Washington Association of Sheriffs and Police Chiefs is required to create a web site with links to county web sites containing sex offender registration information. Upon receiving funding, from a source other than the state, WASPC will create and maintain its own web site with sex offender registration information.

Votes on Final Passage:

Senate 48 0
House 93 0 (House amended)
Senate 47 0 (Senate concurred)

Effective: June 13, 2002

ESSB 6490
C 324 L 02

Increasing penalties for taking a motor vehicle without permission.

By Senate Committee on Ways & Means (originally sponsored by Senators Roach, Kline, Rasmussen, Keiser, Regala, Benton, Honeyford, Oke, Hale, McDonald, Johnson, McCaslin, Kastama, Sheahan and Stevens).

Senate Committee on Judiciary
Senate Committee on Ways & Means
House Committee on Criminal Justice & Corrections
House Committee on Appropriations

Background: Under the Sentencing Reform Act (SRA), an adult offender convicted of a felony has a standard sentence range that is based on the seriousness of the offense and the offender's felony convictions. Taking a motor vehicle without permission, or riding in a vehicle knowing it was taken without permission, is a class C felony which carries a maximum term of five years or a fine of up to \$10,000 or both. It is ranked as a seriousness level I crime under the SRA which, for a first time offender, has a standard sentence range of 0 to 60 days. Juveniles who commit criminal offenses are sentenced under a determinate sentencing model. The sentence of the offender is based on the seriousness of the offense (offense category) and the number of prior adjudications. Taking a motor vehicle without permission is ranked at offense category C which, for a first-time offender, involves local sanctions. Local sanctions can include any combination of the following: 0-30 days confinement; 0-12 months community supervision; 0-150 hours community service; and a fine of \$0 to \$500.

Summary: The crime of taking a motor vehicle without permission is divided into two degrees. The current elements of the crime, taking the vehicle without permission or voluntarily riding in it with knowledge of the fact it was unlawfully taken, become taking a motor vehicle without permission in the second degree. It is a class C felony for adult offenders.

A person is guilty of taking a motor vehicle without permission in the first degree if a person takes a motor vehicle without permission and (1) alters the vehicle in order to change its appearance or primary identification; (2) removes or participates in removing a part or parts from the vehicle; (3) exports or attempts to export the vehicle across state lines or out of the U.S. for profit; (4) intends to sell the motor vehicle; or (5) is engaged in a conspiracy and the object of it is the theft of motor vehicles for sale to others. First degree taking a motor vehicle without permission is a class B felony and is ranked at seriousness level V for an adult offender.

The Sentencing Guidelines Commission is directed to study the impact of this act and whether additional sanctions or penalties are needed to reduce the incidence

of the crime of taking a motor vehicle without permission.

Votes on Final Passage:

Senate	40	9	
House	75	21	(House amended)
Senate	40	6	(Senate concurred)

Effective: June 13, 2002

SB 6491
C 119 L 02

Changing provisions relating to criminal history background checks by state agencies.

By Senators Prentice and Winsley; by request of Gambling Commission and Liquor Control Board.

Senate Committee on Labor, Commerce & Financial Institutions
House Committee on Commerce & Labor

Background: The commercial operation of gambling activities and the sale of alcoholic beverages require a license from the state Gambling Commission or the Liquor Control Board. The Gambling Commission and the Liquor Control Board conduct criminal history background checks on their license applicants. One of the resources for these background checks is the Federal Bureau of Investigation (FBI) data base.

The FBI recently completed a review of Washington State statutes and is requiring that they specifically reference national checks in order to properly authorize the use of FBI records in the screening of license applicants. The FBI has established a deadline for compliance of May 1, 2002, for statutory compliance with federal law. Without compliance, the state agencies would not have access to the FBI information after that date.

Summary: The powers and duties section of the Gambling Commission statute is amended to expressly authorize national criminal history background checks. National checks require fingerprints to be submitted to the FBI. The commission must adopt rules to determine which persons named on the license application are subject to the national criminal history checks.

The Liquor Control Board is expressly authorized to utilize the FBI for criminal history background checks of license applicants. Submissions to the FBI must be accompanied by fingerprints of the applicant. The same provision is added to the surviving spouse of a licensee, who under current law is allowed to have the license of their deceased spouse transferred to them if certain conditions are met.

The rule-making authority of the Liquor Control Board is amended to authorize the adoption of rules to implement national checks using the FBI system. The fingerprinting requirement is also included in this rule-making section.

ESB 6505

Votes on Final Passage:

Senate 47 0
House 93 0

Effective: June 13, 2002

ESB 6505

C 41 L 02

Revising local improvement district statutes.

By Senators Gardner and Hale.

Senate Committee on State & Local Government
House Committee on Local Government & Housing

Background: Each local improvement bond issued must, among other requirements, provide that the principal sum and interest on local improvement bonds be payable out of the local improvement fund created for the cost and expense of the improvement; or out of the local improvement guaranty fund; or with respect to interest only, out of the general revenues of the city or town. Each bond must also provide that the bond owners' remedy in case of nonpayment shall be confined to the enforcement of the special assessments made for the improvement and to the guaranty fund.

The holder or owner of any bond does not have any claim against the city or town which issued the bond except for payment from the special assessments made for the improvement for which the bond was issued, or for payment from the local improvement guaranty fund of the city or town provided the bond was issued after the creation of the local improvement guaranty fund of that city or town.

If a city or town fails to pay any bonds or promptly collect any local improvement assessments when due, in addition to proceeding in their own name to collect the assessment, the owners of local improvement bonds issued by a city or town after the creation of a local improvement guaranty fund therein, also have recourse against the local improvement guaranty fund of such city or town.

Summary: Local improvement bonds must, among other requirements, provide that the principal sum and the interest are payable out of the local improvement fund created for the cost and expense of the improvement; and out of the local improvement guaranty fund, unless the ordinance under which the bond was issued provides otherwise; and out of a reserve fund if established for such bonds; or with respect to interest only, payment can be made out of the general revenues of the city or town, but only if pledged to the payment of such interest.

If a bond is not secured by the local improvement guaranty fund, a statement to that effect must be printed thereon.

The bond owners' remedy in case of nonpayment is confined to the enforcement of the special assessments made for the improvement and to the guaranty fund, or reserve fund, if they were pledged to the payment of such bonds.

The local improvement guaranty fund is not subject to any claim by the holder or owner of a local improvement bond issued under an ordinance that provides that such bonds are not secured by the guaranty fund.

Votes on Final Passage:

Senate 48 0
House 97 0

Effective: June 13, 2002

SB 6508

C 274 L 02

Registering pesticides.

By Senators Rasmussen, Swecker and Winsley.

Senate Committee on Agriculture & International Trade
House Committee on Agriculture & Ecology

Background: Each year, pesticide registrations must be renewed at a cost of \$145. Registration fees are paid to the Department of Agriculture.

Summary: Pesticide registrations are renewed every two years at a cost of \$290.

Votes on Final Passage:

Senate 48 0
House 93 0 (House amended)
Senate 44 0 (Senate concurred)

Effective: January 1, 2003 (Sections 1, 2 and 4)
January 1, 2004 (Section 3)

SB 6511

C 137 L 02

Authorizing any sitting elected judge to be a judge pro tempore.

By Senators Johnson, Kline, Costa and Winsley; by request of Administrator for the Courts.

Senate Committee on Judiciary
House Committee on Judiciary

Background: In November 2001, the voters of this state approved an amendment to the State Constitution (ESJR 8208) governing the use of judges pro tempore in superior court. The amendment provides that, in addition to those persons currently authorized to be a judge pro tempore in superior court, any sitting elected judge may serve as a judge pro tempore in superior court without the approval of the litigants, as provided by Supreme Court rule. The rule must take into consideration assign-

ments of judges pro tempore based on the experience of such judges and provide for the right, exercisable once during the case, to a change of a judge pro tempore.

The Supreme Court has adopted Superior Court Administrative Rule 6 relating to the use of elected judges pro tempore. However, the state statute governing judges pro tempore in superior court has not been amended in a manner consistent with the State Constitution.

Summary: Any sitting elected judge of the Supreme Court, Court of Appeals, district or municipal court may serve as a judge pro tempore in superior court, as provided by Supreme Court rule.

Votes on Final Passage:

Senate	45	0
House	93	0

Effective: June 13, 2002

SSB 6515
C 275 L 02

Allowing the school district capital projects fund to provide for costs associated with implementing technology systems.

By Senate Committee on Education (originally sponsored by Senators McAuliffe, Finkbeiner, B. Sheldon, Carlson, Kohl-Welles, Shin, Kastama, Jacobsen, Fraser, Fairley, Winsley, Oke and Rasmussen).

Senate Committee on Education
House Committee on Education
House Committee on Capital Budget

Background: Under current law, school districts must establish capital projects funds for major capital purposes. Sources of revenue for capital projects funds include bond proceeds, proceeds from excess levies, state apportionment proceeds, earnings from certain investments, rental and lease proceeds, and proceeds from the sale of real property. Some of the permitted uses of capital projects funds include erecting buildings, purchasing equipment for buildings, structural changes and additions, major renovations, and energy capital improvements.

Summary: The law is clarified to allow that capital projects funds may be used by school districts to pay the costs of implementing technology systems, facilities, and projects.

Votes on Final Passage:

Senate	43	0	
House	95	0	(House amended)
Senate	44	0	(Senate concurred)

Effective: June 13, 2002

SB 6526
C 347 L 02

Renewing contracts of insurance that are subject to RCW 48.18.290.

By Senators Keiser and Winsley; by request of Insurance Commissioner.

Senate Committee on Labor, Commerce & Financial Institutions

House Committee on Financial Institutions & Insurance

Background: As a general rule, Washington's insurance code requires that insurance contracts be renewable. An insurer may be excepted from this requirement if it provides the insured with written notice of the refusal to renew at least 45 days prior to the expiration of the policy. The written notice must include a statement explaining the reason for non-renewal.

There are types of limited-duration insurance policies that are intended to be in effect for only a single term and for which the renewal requirement is irrelevant. Examples of such policies include those related to the insuring of a single event, such as an airline flight, a public concert, or a wedding. Current law, however, requires that the nonrenewal notice be provided with respect to such policies, even though the insured never contemplated renewal at the time the insurance contract was initiated.

Summary: An insurer need not provide advance written notice of nonrenewal with respect to an insurance contract that explicitly states that it is for a single term and thus not renewable.

Technical amendments are made for the purpose of clarifying existing terminology.

Votes on Final Passage:

Senate	45	0
House	93	0

Effective: June 13, 2002

SB 6529
C 108 L 02

Modifying the time period for holding elections to fill vacancies.

By Senators Gardner and Haugen.

Senate Committee on State & Local Government
House Committee on State Government

Background: Last session, dates were changed regarding the reopening of filings for certain offices. In general, when a vacancy, void in candidacy, or a nominee for superior court judge entitled to a certificate of election dies or is disqualified before the sixth (changed in 2001 from the fourth) Tuesday before a primary, filings for the office must be reopened. However, dates at which

scheduled elections lapse are still measured from the fourth Tuesday prior to a primary.

Similarly, dates requiring successor elections when vacancies occur in any partisan elective office in the executive or legislative branches of state government, or in any partisan county elective office, are measured from the fourth Tuesday before a primary election.

Summary: Dates at which scheduled elections lapse are changed from the fourth Tuesday prior to a primary to the sixth Tuesday prior to a primary. A scheduled election is lapsed, the office deemed stricken from the ballot, no purported write-in votes counted, and no candidate certified as elected when: in an election for judge of the Supreme Court or Superintendent of Public Instruction, a void in candidacy occurs on or after the sixth Tuesday prior to a primary; a nominee for judge of the superior court entitled to a certificate of election dies or is disqualified on or after the sixth Tuesday prior to a primary; and in other elections for nonpartisan office a void in candidacy occurs or a vacancy occurs involving an unexpired term to be filled on or after the sixth Tuesday prior to an election.

If a vacancy occurs in any partisan elective office in the executive or legislative branches of state government or in any partisan county elective office before the sixth Tuesday (rather than fourth Tuesday) prior to the primary, a successor is elected to that office at that general election. If the vacancy occurs on or after the sixth Tuesday prior to the primary for that general election, the election of the successor occurs at the next succeeding general election.

Votes on Final Passage:

Senate 48 0
House 93 0

Effective: June 13, 2002

SB 6530

C 245 L 02

Adjusting the definition of salvage vehicles.

By Senators Rasmussen, Haugen, Long, Hale and Winsley.

Senate Committee on Transportation
House Committee on Transportation

Background: Under current law, when a vehicle is destroyed beyond repair or declared a total loss, the owner must surrender the title and registration to the Department of Licensing within 15 days of the accident. Once a vehicle's title is surrendered to the department, the vehicle is considered a "salvage vehicle." If the salvage vehicle is rebuilt, current law requires that the department issue a special title and registration with the words "Wa. Rebuilt" displayed across the front of the document. Also, upon inspection of the rebuilt vehicle,

the State Patrol must affix or inscribe a marking on the inside of the driver's side door, indicating the vehicle was previously destroyed or declared a total loss. This marking is sometimes referred to as a brand.

Vehicles that are six years old or older are specifically excluded from the special titling and branding requirements.

Summary: In addition to vehicles that are less than six years old, salvage vehicles requiring special titling and branding must include all vehicles that had a market value of at least \$6,500 immediately before the vehicle was wrecked, destroyed, or damaged and the vehicle has a model year not more than 20 years before the calendar year in which the vehicle was wrecked, destroyed, or damaged.

The \$6,500 threshold must be adjusted annually by the Department of Licensing rule. The annual adjustment must be made according to the growth in the Consumer Price Index (CPI) for used cars and trucks as compiled by the Bureau of Labor Statistics. The threshold amount must not be adjusted if the CPI calculation yields an increase of less than \$50. Any increase to the threshold amount must be rounded to the nearest \$10.

A technical change is made to delete a reference to an obsolete definition of "secured party" and to include the updated reference.

Votes on Final Passage:

Senate 48 0
House 93 0 (House amended)
Senate 42 0 (Senate concurred)

Effective: June 13, 2002

ESSB 6535

C 42 L 02

Authorizing a disposition outside the standard range for the chemical dependency disposition alternative for juvenile offenders.

By Senate Committee on Human Services & Corrections (originally sponsored by Senator Hargrove).

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

Background: Currently, a judge may only order a juvenile into a chemical dependency disposition alternative (CDDA) if the judge can suspend local sanctions or, in a small number of cases, a sentence of 15 to 36 weeks confinement. There has been a concern raised by some judges and courts that not having the option of granting a "manifest justice up" and then suspending the sentence so a juvenile offender can complete a CDDA is denying juvenile offenders the opportunity for treatment and in some cases not providing the offender with the necessary motivation to complete the CDDA.

Summary: The courts are permitted to grant a manifest injustice upward and suspend the sentence so that a juvenile offender can be ordered to complete a chemical dependency disposition alternative. When the court grants a manifest injustice above the standard range, it is limited to a 52 week total confinement sentence.

Votes on Final Passage:

Senate	48	0
House	97	0

Effective: June 13, 2002

SSB 6537
C 116 L 02

Providing emergency contraception to sexual assault victims.

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Costa, Winsley, Kohl-Welles, Thibaudeau, Fairley, Kline, Jacobsen, Prentice, B. Sheldon and Keiser).

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

Background: In 2001 the state convicted 1,280 individuals for committing sex offenses, including 400 rapes involving both children and adults. During the same year, the state's Crime Victims Compensation Program paid for 3,500 medical exams given to individuals who had been sexually assaulted. It is estimated that nationally about one in ten victims report sexual assault to authorities.

According to sexual assault advocates, hospital emergency rooms are most frequently where victims initially seek medical attention. Advocates say that younger victims, especially teenagers, wait as long as a week for medical care, and that the primary concern for all ages seeking care is a fear of pregnancy and sexually transmitted disease.

There is no statewide protocol for treating sexual assault victims in emergency rooms. Hospital practices vary between institutions, especially with regard to providing information about emergency contraception and access to that treatment.

Emergency contraception is typically administered as high doses of hormones within 72 hours of intercourse. Other procedures, such as the insertion of an intrauterine device, are used if treatment is sought later than 72 hours after sexual contact.

Summary: Every hospital providing emergency care in this state must provide sexual assault victims with accurate and understandable information about emergency contraception. Hospitals are also required to provide emergency contraception to any victim who requests it, unless the procedure is not medically safe for the individual.

Emergency contraception is defined as any health care treatment approved by the Food and Drug Administration that prevents pregnancy, including but not limited to high doses of oral contraceptives taken within 72 hours of intercourse.

The Department of Social and Health Service is directed to develop informational materials relating to emergency contraception for distribution to all of the state's hospital emergency rooms.

Votes on Final Passage:

Senate	36	13
House	75	19

Effective: June 13, 2002

SB 6538
PARTIAL VETO
C 282 L 02

Establishing the ballast water work group.

By Senators Regala, Jacobsen and Oke.

Senate Committee on Natural Resources, Parks & Shorelines

House Committee on Natural Resources

Background: The 2000 Legislature passed the Washington State Ballast Water Management Act and gave authority to the Department of Fish and Wildlife to establish a ballast water reporting program and to develop standards for the discharge of treated ballast water.

Summary: The Department of Fish and Wildlife must work with a ballast water work group comprised of the commercial vessel industry and the environmental community to review all issues relating to ballast water technology including exchange and treatment methods. The committee must look at the services needed by the industry and the state to protect the marine environment and review the costs and make recommendations on funding for the ballast water program. The ballast water work group expires June 30, 2004, after making its report to the Legislature, which is due December 15, 2003.

The director of the Department of Fish and Wildlife must monitor the efforts of the Oregon task force examining ballast water management and give periodic updates on these efforts to the Washington Ballast Water Work Group. The department must consider rules when they are adopted in Oregon relating to ballast water management in the Columbia River in the state's rulemaking process.

The Department of Fish and Wildlife, working with the United States Coast Guard, will cooperatively improve the ballast water information system and make recommendations no later than August 1, 2002.

Votes on Final Passage:

Senate 43 0
 House 97 0 (House amended)
 Senate 41 0 (Senate concurred)

Effective: June 13, 2002

Partial Veto Summary: The emergency clause was vetoed.

VETO MESSAGE ON SB 6538

April 1, 2002

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, Senate Bill No. 6538 entitled:

"AN ACT Relating to ballast water;"

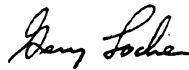
Senate Bill No. 6538 requires the director of the Department of Fish and Wildlife to establish a work group to study issues related to ballast water, including treatment technologies to prevent the spread of invasive species and other pollutants. The group will also examine rules for the treatment and disposal of ballast water in Washington waters.

Section 6 of the bill was an emergency clause, which would have made the law effective upon my signature. I believe the emergency clause is unnecessary for this bill.

For these reasons, I have vetoed section 6 of Senate Bill No. 6538.

With the exception of section 6, Senate Bill No. 6538 is approved.

Respectfully submitted,



Gary Locke
 Governor

SB 6539
 C 67 L 02

Implementing the federal mobile telecommunications sourcing act.

By Senators T. Sheldon, Poulsen and Rossi; by request of Department of Revenue.

Senate Committee on Economic Development & Telecommunications
 House Committee on Finance

Background: State and local governments tax mobile telecommunication services in a variety of ways. Due to the mobility of wireless equipment, determining which state and local taxes apply to a wireless call is complicated. The process of determining where a transaction is taxable is commonly referred to as "sourcing." There are several methods for sourcing wireless calls, including using the location of the originating cell site, the billing address, or the switch that processes the call. However, the different sourcing methods can give rise to multiple claims on the same tax revenue.

In order to create a more uniform system for taxing wireless telecommunications, Congress enacted the federal Mobile Telecommunications Sourcing Act. The new federal law requires that all charges for mobile telecommunication services must be sourced to the customer's "primary place of use." The federal law defines "primary place of use" as either the residential or primary business street address of the customer within the licensed service area of the provider.

Under the federal law, states have the option of supplying wireless providers with an electronic database that matches each street address with its appropriate taxing jurisdiction. If the state fails to supply the provider with a database, the wireless provider can use nine-digit zip codes to assign addresses to appropriate taxing jurisdictions.

Summary: The following state and local excise taxes on mobile telecommunications are sourced to the customer's primary place of use (customer's residential or business address): state B&O tax; state and local retail sales taxes; city utility taxes; and state and county telephone access line taxes.

However, for state B&O taxes, a mobile telecommunications service provider may elect to pay tax on all services that originate from or are received on telecommunications equipment or apparatus in this state and are billed to a person in this state, regardless of the customer's place of primary use. If the service provider chooses to make this election, the service provider must provide written notice to the Department of Revenue (DOR).

The DOR or a designated database provider is authorized, but not required, to develop and provide an electronic database which complies with the federal uniform format. If no database is provided, carriers may use their own databases, so long as they also comply with the federal uniform format.

If a customer believes that the amount of tax on a mobile telecommunications bill is erroneous, the customer may notify the service provider in writing. The service provider must respond within 60 days by correcting the error or providing a written explanation of why the service provider believes the tax is correct. The customer may not file a lawsuit for refund of erroneous tax charges until the above procedure is followed.

The changes in tax liabilities apply to customer bills issued on or after August 1, 2002.

If the federal Mobile Telecommunications Sourcing Act is held unconstitutional, this act is rendered invalid.

Votes on Final Passage:

Senate 48 0
 House 93 0

Effective: August 1, 2002

SSB 6553

C 281 L 02

Enhancing regulatory capabilities to prevent invasive aquatic species.

By Senate Committee on Natural Resources, Parks & Shorelines (originally sponsored by Senators Poulsen, Oke and Regala; by request of Governor Locke).

Senate Committee on Natural Resources, Parks & Shorelines

House Committee on Natural Resources

Background: The Washington State Legislature created the Invasive Aquatic Species Act in order to give the Department of Fish and Wildlife and other state agencies the authority to control the introduction of invasive aquatic species that damage the native environment.

Summary: The Legislature recognizes that the potential economic and environmental damage that can occur from the introduction of the invasive aquatic species is serious and increased public awareness of invasive aquatic species is a benefit to the state.

The director of the Department of Fish and Wildlife must create a rapid response plan in cooperation with the Aquatic Nuisance Species Committee and the other state agencies involved in invasive species management. The director of the Department of Fish and Wildlife and the Chief of the State Patrol must jointly develop a plan to inspect watercraft entering the state to prevent the introduction of invasive aquatic species. The plan must be provided to the Legislature by December 2003. The Fish and Wildlife Commission is given authority to classify nonnative aquatic animal species in various categories related to their danger to the environment. The commission is given the authority to designate by rule state waters that are infested if the director of the Department of Fish and Wildlife determines that the waters contain a prohibited aquatic animal species.

The Fish and Wildlife Commission will designate commercial shellfish species as regulated aquatic species. The commission will develop a work plan to eradicate native aquatic species that threaten human health. Plant and non-native animal species that threaten or harm human health and native plant species that displace other species, threaten natural resources or cause economic harm can be classified as an "invasive specie." Invasive species is defined to match the federal definition.

Persons may not possess, import, purchase, sell, propagate, or transport prohibited aquatic animal species in the state. Exceptions are allowed for identifying a species or reporting the presence of a species, for possessing a prohibited species while in the process of removing it from watercraft or equipment in the manner specified by the department, or to take the species and

return it to the water from which it came. A gross misdemeanor penalty is established.

Ballast water is excluded from the act.

Votes on Final Passage:

Senate	46	0	
House	93	0	(House amended)
Senate	43	0	(Senate concurred)

Effective: June 13, 2002

SB 6557**PARTIAL VETO**

C 348 L 02

Providing for the higher education coordinating board to select its chair and vice-chair.

By Senators Kohl-Welles, Horn, Carlson, Shin, Jacobsen, Sheahan, McAuliffe, Parlette and B. Sheldon.

Senate Committee on Higher Education

House Committee on Higher Education

Background: Under current Washington law, the Higher Education Coordinating Board (HECB) consists of nine members appointed by the Governor and approved by the Senate. The chair of the HECB is appointed by the Governor and serves at the Governor's pleasure. The members of the HECB, other than the chair, serve for a term of four years. The State Board for Community and Technical Colleges, like the HECB, consists of nine members appointed by the Governor with the consent of the Senate, but the chair and vice chair are elected by the members of the board annually.

Summary: The members of the HECB are given the authority to select from their membership a chair and vice-chair who serve a one-year term as chair or vice-chair. The chair or vice-chair may serve more than one term if the board chooses to reselect them. This new process for selecting a chair and vice-chair does not take effect until the term of the current chair is over. All members of the HECB serve four-year terms with no exception for the chair.

Votes on Final Passage:

Senate	46	0	
House	93	0	(House amended)
Senate	44	0	(Senate concurred)

Effective: June 13, 2002

Partial Veto Summary: Currently, all members of the Higher Education Coordinating Board serve four-year terms, except the chair, who serves at the pleasure of the Governor. Section 2 of the bill would have changed the term of the chair to a four-year term as well. However, it was unclear whether the four-year term limitation for the chair applied to the current chair. The existing law, which is retained by this veto, does not contain the same

ESSB 6558

caveat as section 1 of the bill regarding the term of the current chair.

VETO MESSAGE ON SB 6557

April 3, 2002

To the Honorable President and Members,
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval as to section 2, Senate Bill No. 6557 entitled:

"AN ACT relating to the selection of the chair of the higher education coordinating board;"

Senate Bill No. 6557 changes the structure of the Higher Education Coordinating Board (HECB) to allow the HECB members to select the chair, rather than the governor.

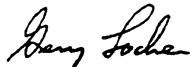
Currently, all members of the HECB serve four-year terms, except the chair, who serves at the pleasure of the governor. Section 2 of the bill would have changed the term of the chair to a four-year term as well. However, it was unclear whether the four-year term limitation for the chair applied to the current chair. The existing law, which is retained by this veto, does not contain the same caveat as section 1 of the bill regarding the term of the current chair. Accordingly, this veto may create confusion regarding the length of the chair's term. I ask the legislature to pass remedial legislation next year.

I endorse rotation of the chair among the board members in the future, however it is a principle of the Washington State Constitution that the term of an official should not be shortened while the official is in office.

For these reasons, I have vetoed section 2 of Senate Bill No. 6557.

With the exception of section 2, Senate Bill No. 6557 is approved.

Respectfully submitted,



Gary Locke
Governor

ESSB 6558

C 209 L 02

Revising provisions for the governance of the Washington state school for the deaf.

By Senate Committee on Education (originally sponsored by Senators Kohl-Welles, Carlson and Hargrove; by request of Governor Locke).

Senate Committee on Education
House Committee on Children & Family Services

Background: The Washington State School for the Deaf (WSD) is located in Vancouver, Washington, and serves to educate and train hearing impaired children. Under current law, the WSD is managed by a superintendent appointed by the Governor. Additionally, the WSD has a Board of Trustees, also appointed by the Governor, that includes nine voting members with one from each of the state's congressional districts (who serve subject to Senate consent) and four nonvoting members. The

Board of Trustees serves in an advisory role only, making recommendations to the Legislature and superintendent regarding the development of programs for the hearing impaired and the operation of the WSD.

Summary: The powers and duties of the WSD Board of Trustees and superintendent are changed. The superintendent must supervise and manage the WSD; however, many of the superintendent's duties require Board of Trustees' approval. The Board of Trustees must provide oversight to the Legislature and Governor of the WSD. Additionally, the Board of Trustees has approval authority over the superintendent's recommended course of study at the WSD and the rules governing the operation of the WSD's residential facilities.

Language regarding the composition of the board is changed; the board is still composed of nine voting members, with one from each of the state's congressional districts. However, when making appointments to the board, the Governor may appoint members from specified stakeholder groups. Additionally, reference to the four nonvoting members is deleted.

Finally, the board must: (1) report on a biennial basis to both the Legislature and the Governor regarding the status of the WSD's operations, (2) oversee the development and implementation of a quality improvement plan, (3) monitor enforcement of education civil rights laws at the school, and (4) submit a biennial evaluation of the superintendent to the Governor and may recommend to the Governor the removal of the superintendent.

Votes on Final Passage:

Senate	48	0	
House	95	0	(House amended)
Senate	45	0	(Senate concurred)

Effective: July 1, 2002

E2SSB 6560

C 349 L 02

Allowing the lottery commission to participate in a shared game lottery.

By Senate Committee on Ways & Means (originally sponsored by Senator Prentice; by request of Governor Locke).

Senate Committee on Labor, Commerce & Financial Institutions
Senate Committee on Ways & Means

Background: Current law precludes the Lottery Commission from entering into an agreement with other state lotteries to conduct shared or multi-state games. Prior legislative approval is required.

Forty states have state lotteries. Of those, 32 states have or are proposing a shared multi-state game such as PowerBall or The Big Game. Oregon and Idaho currently offer PowerBall. These games operate like

Washington's current Lotto game, selling on-line tickets through commissioned vendors, and offering two draws per week. The shared nature of these multi-state games allows for multi-million dollar jackpots at every drawing.

Currently, revenue from Washington State lottery sales goes into the state lottery account, and then is apportioned to prizes (a minimum of 45 percent), administrative costs, and the student achievement and education construction accounts.

Summary: The Lottery Commission is given express authority to enter into the multi-state agreement establishing the shared game lottery known as The Big Game. "Shared game lottery" is defined as any lottery activity in which the commission participates under written agreement between the commission, on behalf of the state, and any other state or states. A new "shared game lottery account" for multi-state game lottery revenues is created, managed by the Lottery Commission.

The Legislature recognizes that shared game ticket sales may reduce sales of existing lottery tickets, and that the two funds most impacted by this shift are the student achievement account and the education construction account. For fiscal year 2003 and thereafter, if the amount of lottery revenues for these two funds collectively falls below \$102 million, the Lottery Commission must transfer an amount from the shared game lottery account to the student achievement and the education construction accounts to meet the \$102 million level.

For fiscal year 2003, \$500,000 of the shared game revenues are transferred into the violence reduction and drug enforcement account (VRDE), exclusively for the treatment of pathological gambling. The Department of Social and Health Services is required to develop a treatment program for pathological gambling for persons amenable to but unable to afford treatment. Treatment is limited to funds available. The department must report to the Legislature by September 1, 2002, with a plan for implementing the program, and by November 1, 2003, with program participation and client outcomes.

The remaining shared game revenue is transferred to the general fund.

Votes on Final Passage:

Senate 27 22
House 60 38

Effective: June 13, 2002

SB 6571

C 139 L 02

Providing fiscal impact statements for ballot measures.

By Senators Franklin, Gardner, Fraser, Winsley, Keiser, McCaslin, Hargrove, Regala, Shin, Jacobsen, Snyder, Poulsen, Costa, B. Sheldon, Kastama, Spanel, Haugen, Fairley, Thibaudeau, McAuliffe, Rasmussen, Kohl-Welles and Oke.

Senate Committee on State & Local Government
House Committee on State Government
House Committee on Appropriations

Background: Fiscal notes are prepared by the Office of Financial Management (OFM) when requested to do so on bills during the legislative session. No such analysis is prepared for ballot measures or referenda.

Initiatives to the people appear in the state voters' pamphlet printed and distributed by the Secretary of State. In addition to the full text of the initiatives, the voters' pamphlet contains ballot measure summaries prepared by the Attorney General and statements for and against the measures prepared by specially appointed committees.

Summary: OFM, in consultation with the Secretary of State and Attorney General, must prepare fiscal impact statements on ballot measures. The statement must include both a summary of up to 100 words and a more detailed statement of the assumptions made in order to develop the fiscal impacts. The Secretary of State must make the statement available on-line and include it in the state voters' pamphlet.

Votes on Final Passage:

Senate 30 18
House 58 38 (House amended)
Senate (Senate refused to concur)
House 57 40 (House receded)
House 55 42 (House reconsidered)

Effective: June 13, 2002

SSB 6572

C 43 L 02

Regarding conservation district supervisors.

By Senate Committee on Agriculture & International Trade (originally sponsored by Senators Rasmussen, Morton, Carlson and Benton).

Senate Committee on Agriculture & International Trade
House Committee on Agriculture & Ecology

Background: Conservation district statutes were enacted in 1939. These statutes contain a process for conducting elections for conservation district supervisors and elections for creation of districts, and annexation of lands into the district. Under these statutes, the board of

Supervisors is composed of five members, three whom are elected and two that are appointed by the State Conservation Commission.

Terms of office are three years with one position standing for election each year. The board of supervisors sets the date of election which is to occur during the first quarter of each calendar year. A petition signed by 25 electors is needed for a person's name to appear on the ballot. An extra line is to be on the ballot for a write-in candidate. The election is held in the district at a location determined by the board. The board is to give due notice of the election.

Conservation district supervisors receive no compensation but may be reimbursed for expenses.

The State Conservation Commission has authority to establish procedures for elections, canvass the returns, and announce the official results.

In 1999, a change was made that voters of the district are to be registered voters of the county and reside within the district. This replaced the provision that "land occupiers" are eligible voters. Land occupier is defined as any person, firm, or political subdivision who holds title or is in possession of any lands within the district whether owner, lessee, renter, tenant or otherwise.

Elections for the year 2000 were conducted under the conservation district statutes. Since then, conflicting legal interpretations have arisen as to whether conservation district elections are to continue under the conservation district statutes or in accordance with the state general election law. Those elections held in the year 2001 were conducted under the general election law in accordance with guidance provided by the Attorney General's Office to the State Conservation Commission. Under the general election law, each participating entity is required to pay a prorated share of the cost of primary and general elections.

Additionally, there is a legal issue of whether the three elected conservation district supervisors are subject to campaign disclosure and personal financing reporting requirements. The supervisors appointed by the state are exempt from public disclosure requirements as are the members of the State Conservation Commission.

Summary: The intent of the Legislature in regards to the 1999 amendments is clarified. It is the intent of the Legislature that conservation district elections are to be conducted under procedures contained in the conservation district statutes, and not under the general election laws, and further, that there be no change in the applicability of the public disclosure laws to conservation district supervisors from those that existed prior to the 1999 amendments.

Conservation districts are specifically excluded under the general election statutes. Elections of conservation district supervisors held pursuant to the conservation district laws are not considered a general or special

election for the purpose of campaign disclosure or personal financial affairs reporting requirements.

Election of supervisors for the year 2002 are held in the second quarter of the calendar year rather than the first quarter.

A seven-member work group must review conservation district election procedures. The chair is a person with expertise and experience in local elections named by the president of the County Auditors Association. The remaining six members are selected from lists nominated by enumerated organizations by the Speaker of the House of Representatives and the President of the Senate. Progress reports may be requested by legislative committees. A final report is submitted to the Legislature by December 15, 2002. No additional funds are appropriated for the work group or the report. Meetings of the work group are open to the public and the time and location are announced.

Votes on Final Passage:

Senate	47	1
House	92	5

Effective: March 14, 2002

SSB 6575

C 284 L 02

Concerning the designation of certain lands as natural area preserves or natural resource conservation areas.

By Senate Committee on Natural Resources, Parks & Shorelines (originally sponsored by Senator Hargrove).

Senate Committee on Natural Resources, Parks & Shorelines

House Committee on Natural Resources

Background: The state of Washington has two natural resource conservation programs. The first is the natural resources conservation areas which are established for their outstanding scenic and ecological values, and provide low impact public use. The second is the natural area preserve system which has more limited public access and is an attempt to preserve the best remaining examples of Washington's native ecosystems. There are 47 natural area preserves protecting approximately 26,000 acres in the state of Washington.

Summary: The Department of Natural Resources must develop standards for regulating public access to natural area preserves and provide buffer zones with a higher level of public access allowed around environmentally sensitive areas. The department must develop management plans for each area and identify the significant resources to be conserved in that area. The plan must identify specific types of management activities and public uses that are permitted and the plans must be available for public review and comment

The Natural Heritage Advisory Council must recommend whether new natural areas proposed for protection should be established as natural area preserves, or as natural resources conservation areas, or as a combination of both. The council must also review and comment on management plans proposed by the department.

Votes on Final Passage:

Senate 47 0
 House 97 0 (House amended)
 Senate 46 0 (Senate concurred)

Effective: June 13, 2002

SB 6577
 C 163 L 02

Prohibiting substitution of subcontractors on larger public works contracts.

By Senators Gardner, Roach and Costa.

Senate Committee on State & Local Government
 House Committee on State Government

Background: Bid shopping refers to a general or prime contractor's supposed attempt to reduce its own costs, after being awarded a contract, by finding a subcontractor that will submit a lower bid than that used in calculating the total contract price. Some believe bid shopping in public works projects gives the general contractor a windfall profit at the expense of taxpayers, as the savings generated by bid shopping are not passed on to the governmental unit contracting out the work.

Summary: A prime contract bidder must submit, as part of every bid for a public works project that is expected to cost \$1 million or more, who will subcontract for performance of HVAC (heating, ventilation and air conditioning), plumbing, and electrical work. The prime contract bidder cannot list more than one subcontractor for each category of work identified. Substitution of a listed subcontractor in furtherance of bid shopping before or after the award of the prime contract is prohibited and the originally listed subcontractor is entitled to recover damages from the prime bidder and the substituted subcontractor, but not from the public entity inviting the bid. The original subcontractor must prove by a preponderance of the evidence that bid shopping has occurred. Failure to include the names of such subcontractors, or to name itself to perform such work, or naming two or more subcontractors to perform the same work, renders the prime contract bidder's bid nonresponsive and therefore void. Situations where a prime contractor can substitute a listed subcontractor are included.

Votes on Final Passage:

Senate 41 8
 House 93 0 (House amended)
 Senate 43 0 (Senate concurred)

Effective: June 13, 2002

SB 6578
 C 44 L 02

Exempting land leases for personal wireless communication facilities from the subdivision act.

By Senators B. Sheldon, Finkbeiner, Poulsen, Rossi and T. Sheldon.

Senate Committee on Economic Development & Telecommunications
 House Committee on Technology, Telecommunications & Energy

Background: The location of personal wireless services facilities, such as cellular towers, is generally governed by local zoning ordinances. In many cases, personal wireless services companies apply for building permits or conditional use permits and then construct their facilities on leased property.

The state Subdivision Act and supplemental local ordinances govern many divisions of property by sale, lease, or transfer of ownership. The Subdivision Act requires that property divisions be accomplished by "plats," which are detailed maps that show the new parcels along with such things as streets, alleys, and parks. The Subdivision Act has seven exceptions:

- Property divisions for cemeteries and burial plots.
- Certain property divisions of five acres or larger.
- Property divisions by will or inheritance.
- Certain property divisions for industrial or commercial use.
- Certain property divisions by lease when no residential structures other than mobile homes or trailers will be placed on the land.
- Certain property divisions to adjust boundaries.
- Certain property divisions to develop condominiums.

Summary: An exception is added to the Subdivision Act for property leases for personal wireless services facilities. "Personal wireless services" means any federally licensed personal wireless service. "Facilities" means unstaffed facilities that are used for the transmission or reception, or both, of wireless communication services including antenna arrays, transmission cables, equipment shelters, and support structures.

Votes on Final Passage:

Senate 48 0
 House 97 0

Effective: June 13, 2002

SB 6587
C 45 L 02

Repealing state regulation of eye banks.

By Senators Thibaudeau and Deccio; by request of Department of Health.

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

Background: Eye banks provide services for collecting and harvesting eye tissue. Washington has one eye bank licensed by the state to provide corneal tissue for transplantation. This eye bank is also regulated by the federal government.

The Department of Health has identified the regulation of the corneal eye bank as a potential budget reduction in compliance with the Governor's proposed budget.

Summary: RCW 68.50.630, requiring state regulation of eye banks, is repealed.

Votes on Final Passage:

Senate	46	0
House	97	0

Effective: June 13, 2002

ESSB 6588
FULL VETO

Requiring exclusive statewide food service rules for food service establishments.

By Senate Committee on Agriculture & International Trade (originally sponsored by Senators Rasmussen and Swecker).

Senate Committee on Agriculture & International Trade
House Committee on Agriculture & Ecology

Background: The State Board of Health adopted food service rules for food service establishments in 1992. Food service establishments are defined in rule to include: restaurants; retail food stores; institutions such as schools, hospitals, and prisons; caterers; mobile food units; bed and breakfasts; and others. The rules exclude private homes, and commercial food processing establishments licensed and regulated by the United States Department of Agriculture, federal Food and Drug Administration and the Washington State Department of Agriculture.

The rules provide that a local health board may adopt more stringent regulations than those contained in these regulations.

Local boards of health have supervision over all matters pertaining to the preservation of the life and health of the people within their jurisdictions and are required to enforce public health statutes of the state and rules promulgated by the State Board of Health and the Secretary of the Department of Health. Local boards of health

also have authority to enact local rules necessary to protect public health.

The federal Food and Drug Administration has recently developed and updated a model food code to serve as a guide to states. The State Board of Health has formed an advisory committee to review the current food service rules including an evaluation of the federal model food code.

Summary: Legislative findings are made that the public health interest requires that there be uniform rules food service rules for food service establishments to assure safe food and to facilitate effective training of food handlers.

The State Board of Health must adopt updated food service rules no later than December 31, 2004, in consultation with local boards of health and the regulated community. At that time, the State Board of Health has sole rule-making authority to adopt food service rules for food service establishments, and the Department of Health has exclusive authority to interpret the rules. Local health departments administer the state food service rules, except that local health departments are not prohibited from adopting a temporary deviation from the state rules for a limited period of time to respond to an emergency that threatens the public health or safety. A temporary deviation shall not be in force for more than 180 days unless the State Board of Health grants a further temporary or permanent extension based on demonstrated need. Within 120 days of the time that the local emergency action is taken, the State Board of Health must determine if the state board should adopt a statewide rule.

Votes on Final Passage:

Senate	29	20
House	90	6

VETO MESSAGE ON SB 6588-S

April 4, 2002

*To the Honorable President and Members,
The Senate of the State of Washington*

Ladies and Gentlemen:

I am returning herewith, without my approval, Engrossed Substitute Senate Bill No. 6588 entitled:

"AN ACT Relating to food service rules;"

Substitute Senate Bill No. 6588 would have provided sole rulemaking authority to the State Board of Health for food service rules, and it would have made the state Department of Health the exclusive authority to interpret the rules.

I support the development of a statewide food code that will protect all the citizens of the state, as well as provide more uniform standards for restaurants and other food handlers. However, such an effort must leave enough flexibility for local health jurisdictions to make adjustments to accommodate their unique circumstances. It is not necessary to diminish the existing powers or duties of local health authorities in order to gain a greater level of uniformity across our state.

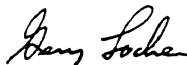
It is my understanding that the State Board of Health is already working to revise our state's food code. I encourage local health authorities to work with the regulated community and the state to make sure the new rules provide uniformity

wherever practical, and are comprehensive enough to address unique local circumstances. I would like to see a state code that allows for narrow or limited deviations, and can be readily adopted by local jurisdictions.

While this bill attempted to allow a local health board to adopt temporary deviations from the state rules, to respond to emergencies that 'threatens the public health or safety,' it is unclear what constitutes an emergency for this purpose. This bill is too restrictive of local health authorities.

For these reasons, I have vetoed Engrossed Substitute Senate Bill No. 6588 in its entirety.

Respectfully submitted,



Gary Locke
Governor

SB 6591
C 325 L 02

Changing the taxation of tobacco products to provide for the taxation of products purchased for resale from persons immune from state tax.

By Senators Prentice and Oke; by request of Department of Revenue.

Senate Committee on Labor, Commerce & Financial Institutions

Background: The tobacco tax applies to the sale, use, consumption, handling, or distribution of all tobacco products in the state. Tobacco products and cigarettes are taxed separately. Examples of tobacco products are cigars, pipe tobacco, and chewing tobacco. The tax is based on the wholesale price, which is the price charged by the manufacturer to a distributor.

Currently, the tobacco tax is imposed on "distributors." The tax is due from the distributor when the distributor brings tobacco products into the state, manufactures tobacco products in the state, or ships tobacco products to retailers in the state. However, there are persons in the state who are not required to pay the tobacco tax. When a person who is immune from state taxation acts as a distributor of tobacco products, the state tobacco tax is not collected.

Summary: The definition of distributor is changed to include sellers of tobacco products that handle tobacco products which have not been subjected to the tobacco tax. Therefore, distributors who sell tobacco products must pay the tobacco tax in cases where the tax has not already been paid.

The definition of person is changed to exclude federal governmental entities and federally recognized Indian tribes from the definition.

The Department of Revenue must develop invoicing rules for the class of distributors created under this new

subsection and those invoices required to be provided to retailers under current Washington law.

A retailer failing to pay the tobacco tax on uninvoiced tobacco products is not assessed penalties for the first offense. However, penalties and interest are assessed for any subsequent nonpayments as provided for under current Washington law.

Votes on Final Passage:

Senate	47	0	
House	87	10	(House amended)
Senate	44	1	(Senate concurred)

Effective: July 1, 2002

ESSB 6594
C 68 L 02

Implementing the recommendations of the joint select committee on the equitable distribution of secure community transition facilities.

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Carlson, Costa, Hargrove and Long; by request of Jt Select Comm on the Equitable Distrib of Secure Community Transition Facil).

Senate Committee on Human Services & Corrections
Senate Committee on Ways & Means
House Committee on Criminal Justice & Corrections
House Committee on Appropriations

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 of secure community transition facilities (SCTFs) and sections 213 through 218 and 222 of the act, which establish the basic siting and operating criteria. The Committee was also charged with recommending a method for determining possible mitigation for future SCTFs. The Committee was mandated to provide a report to the Governor and to the chairs of the Senate Committee on Human Services and Corrections and the House Committee on Criminal Justice and Corrections including any recommended legislation. The report included the text of this legislation.

During the hearings, significant concerns were raised that local governments were unable to comply with the underlying requirement to plan for SCTFs under the essential public facilities law, in large part due to concerns about civil liability for complying with that law. There was also a great deal of public comment by some county commissioners while the Committee was meeting that expressed an unwillingness to site SCTFs under any circumstances, and expressed a desire for

some form of preemption. Local officials were not all in agreement on the degree of preemption desired and some expressed a desire for continued participation after preemption. At the same time, Department of Social and Health Services (DSHS) reported to the Committee that some local governments were considering making the siting and staffing requirements substantially more restrictive than contemplated by the Legislature in the adoption of the underlying bill and that meeting the requirements, even where possible, would greatly exceed the appropriated funding. There was discussion about the scope of the preemption in the underlying bill and testimony that the Governor's proposed language was expanded prior to passage to cover the State Environmental Policy Act (SEPA) and that a trial court had not interpreted the language in that manner.

A second major concern was the requirement that DSHS endeavor to site in a manner that achieved a five-minute law enforcement response time. Law enforcement testified that this was not possible in most, if not all, jurisdictions. Law enforcement also testified that geography was not how response time was determined and that this provision drove SCTFs into areas where they posed the greatest risk to public safety. They were also concerned with liability under this provision and others.

Summary: No person may bring a cause of action for civil damages against a county or city based on the good faith actions of a county or city to provide siting for SCTFs in accordance with the law. Eligibility for the planning grant provided under existing law is extended to 120 days after the effective date of this act. Planning and incentive grants provided in existing law are subject to appropriation by the Legislature. Any county, which had at least five persons detained or committed under Chapter 71.09 RCW as of April 1, 2001, that was notified under 3ESSB 6151 that DSHS expected to site beds in that county by May 2007 and fails to complete adoption of their development regulations for SCTFs as required under the existing essential public facilities law by October 1, 2002, is preempted. Affected counties are: King, Snohomish, Thurston, Clark, Kitsap and Spokane. A determination that a city or county is preempted is final and not subject to appeal under the Administrative Procedure Act or the Growth Management Act. DSHS may site SCTFs within a preempted county without regard to development regulations, permitting requirements or any other law including SEPA, the Shorelines Act, and the Hydraulics Code. This preemption provision also applies to the cities within the six counties. DSHS may continue to consult with a city or county that has been preempted. Preemption does not make a city or county ineligible for specified grants, loans, or pledges and is not a basis for a private cause of action or an appeal under RCW 43.17.250(2).

For facilities sited under the exemption from SEPA, DSHS must site construct, operate and occupy in an environmentally responsible manner and must make a threshold determination whether an SCTF sited under a preemption would have a significant adverse environmental impact. If so, DSHS must prepare an environmental impact statement that meets the requirements of SEPA and the rules adopted by the Department of Ecology. This requirement is not a basis for any civil cause of action or administrative appeal and expires June 30, 2009.

The provisions clarifying that the preemption of "all other laws" includes SEPA, the Shorelines Act and the Hydraulics Code and setting forth the preemption in those statutes expire June 30, 2009.

Where a city or county adopts development regulations in accordance with the law, DSHS must comply with those regulations to site an SCTF in that city or county. Cities and counties may not adopt development regulations more restrictive than the requirements that the state has imposed on DSHS where the state has established specific requirements for the siting or operation of SCTFs. Regulations that are more restrictive than the statutory requirements enacted by the state are void.

DSHS must hold siting hearings in preempted cities and counties. A preempted city or county may propose public safety measures specific to a particular site. The proposal must be in writing and delivered to DSHS by the hearing date. DSHS must respond to the proposed measures in writing within 15 business days. If the city or county finds the response inadequate, they may notify the department within 15 business days of the specific responses they find inadequate and the department must respond to the alleged inadequacies within seven business days. If the city or county fails to notify the department within 15 days, the department's response is final. If the DSHS response is not revised to the satisfaction of the city or county, the city or county may petition the Governor to appoint a designee with law enforcement experience for an emergency hearing under the Administrative Procedure Act. The Governor's designee must hear the petition and then must make a determination within 30 days. The Governor's designee shall consider the DSHS response, and the effectiveness and cost of the proposed measures in relation to the purposes of civil commitment. The decision by the Governor's designee is final and not subject to judicial review. The county or city must bear the cost of the petition. If the city or county prevails on all issues, DSHS must reimburse the costs. The department's consideration of the proposed conditions may not be construed to affect the preemption.

Law enforcement must respond to calls regarding residents of SCTFs as high priority calls, and a law enforcement officer who responds reasonably and in good faith to such a call shall not be held liable for civil

damages based on the acts of the resident or the actions of the officer during the response. This immunity extends to the officer's employing city or county.

School bus stops are risk potential activities or facilities, but do not include bus stops established primarily for public transit.

A person with whom a resident has, or has had, a dating relationship is not eligible to be an escort.

At the request of local government, DSHS must enter into a long-term contract memorializing the agreements between the state and the local government related to the operation of the facility. Any contract regarding mitigation must be separate. The contract must include language stating that the contract does not obligate the state to continue operating any aspect of the civil commitment program under Chapter 71.09 RCW or to operate the SCTF if sufficient funds are not appropriated by the Legislature. It also must include language stating that a local government is not obligated to operate an SCTF. A city or county may contract with DSHS to operate an SCTF.

Mitigation for future facilities is limited to four categories:

- **One-time training on the establishment of an SCTF:** This training includes training for law enforcement and administrative staff and training by law enforcement of SCTF staff. Reimbursement is limited to wages and benefits for the city or county staff while being trained by the state and costs associated with preparation and delivery of training to SCTF staff.
- **Information coordination:** This refers to coordination between law enforcement agencies and between law enforcement and the SCTF related to facility residents. Reimbursement is limited to start-up costs.
- **One-time capital costs:** These are off-site costs associated with a need for increased security in specific locations and are limited to actual costs.
- **Incident response costs:** These are criminal justice costs associated with residents who violate conditions or who commit new crimes. Incident response costs do not include costs associated with civil cases based on the actions of a resident.

Votes on Final Passage:

Senate	49	0	
House	55	41	(House amended)
Senate	29	15	(Senate concurred)

Effective: March 21, 2002

SB 6596

C 138 L 02

Increasing the number of Spokane district court judges.

By Senators McCaslin, Brown, Long, Sheahan, Johnson, Kline, Roach and West.

Senate Committee on Judiciary
House Committee on Judiciary

Background: The number of district court judges in each county is set by statute. There is a procedure, also in statute, for changing the number of judges in a county.

The Legislature determines the number of district court judges in a county after receiving a recommendation of the Supreme Court. The process of formulating such a recommendation involves the use of a "weighted caseload" analysis developed by the Administrative Office of the Courts. The weighted caseload analysis includes consideration of the amount of judicial time and resources needed to process various kinds of cases.

Summary: The number of district court judges in Spokane County is increased from nine to ten.

Votes on Final Passage:

Senate	48	0
House	93	0

Effective: June 13, 2002

SSB 6597

C 46 L 02

Authorizing additional school district capital demonstration projects.

By Senate Committee on State & Local Government (originally sponsored by Senators Winsley, Gardner, Kohl-Welles, B. Sheldon and Keiser).

Senate Committee on State & Local Government
House Committee on State Government

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 have been authorized to use alternative public works contracting procedures to award contracts on certain public works with a value over \$12 million. One alternative procedure is the "design-build" procedure. Another alternative procedure is the "general contractor/construction manager" (GCCM) procedure. Authority to use these alternative public works contracting procedures terminates July 1, 2007.

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 specified criteria. 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 specified criteria.

The Department of General Administration, the 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 port district with revenues greater than \$15 million per year, any public utility district with revenues greater than \$23 million per year, and any public authority chartered by a city are authorized to use these procedures.

In addition, the School District Project Review Board may authorize two demonstration projects valued over \$10 million and two demonstration projects valued between \$5 and \$10 million. The board may not approve more than one demonstration project for each school district.

Summary: The design-build procedure and the GCCM procedure may be used for public works projects valued over \$10 million.

The School District Project Review Board may authorize up to ten demonstration projects valued over \$5 million, of which at least two demonstration projects must be valued between \$5 and \$10 million.

More than one demonstration project may be approved for each school district.

Votes on Final Passage:

Senate	48	0
House	97	0

Effective: March 14, 2002

SSB 6600
C 143 L 02

Authorizing unclassified position appointments in city or town police departments.

By Senate Committee on Labor, Commerce & Financial Institutions (originally sponsored by Senator Prentice).

Senate Committee on Labor, Commerce & Financial Institutions

House Committee on Commerce & Labor

Background: State law requires that certain city, town, and municipal police departments operate under civil service systems. It specifies which municipalities are exempt from this requirement. It also specifies which employees are included in the classified civil service and which employees may be exempt.

Municipalities with "full paid police departments" must provide for civil service in their police departments. This requirement, however, does not apply to municipalities that provide for civil service in their police departments by local charter or other regulations. It also does

not apply to municipalities with police departments of not more than two persons.

The civil service systems for covered police departments include all "full paid employees," including the police chief, with one exception. An individual appointed as police chief after July 1, 1987, to a department with six or more commissioned officers may be made exempt from civil service by the legislative body of the municipality.

State law similarly requires that county sheriff offices operate under civil service systems that apply to certain employees. The civil service systems for sheriff offices include all deputy sheriffs and other employees. The county sheriff and, depending on the total number of employees in the office, an additional number of positions are exempt from civil service.

Summary: State law specifying which police department employees are included in the classified civil service, and which may be exempt, is modified.

If the police chief of a department with six or more commissioned officers has been made exempt, the civil service system includes all "full paid employees" except the chief and a specified number of additional positions. The number of additional unclassified positions is determined by the number of department employees as follows:

- Departments with six to 10 employees may exempt two positions.
- Departments with 11 to 20 employees may exempt three positions.
- Departments with 21 to 50 employees may exempt four positions.
- Departments with 51 to 100 employees may exempt five positions.
- Departments with 101 to 250 employees may exempt six positions.
- Departments with 251 to 500 employees may exempt eight positions.
- Departments with 501 or more employees may exempt 10 positions.

The additional unclassified positions may only be from the following positions: assistant chief, deputy chief, bureau commander, and administrative assistant or administrative secretary. The police chief initially designates which positions are unclassified, and notifies the Civil Service Commission of those positions. Any changes to those positions must be made with the concurrence of the chief, the mayor or city administrator, and the commission, and only after the commission has heard the issue in an open meeting.

A section declaring department employees serving in 1937 to be eligible for permanent appointments to their positions is repealed.

Votes on Final Passage:

Senate 46 0
 House 97 0 (House amended)
 Senate 44 0 (Senate concurred)

Effective: June 13, 2002

SB 6601
 C 109 L 02

Allowing a licensed distiller, domestic brewery, micro-brewery, or domestic winery to sell liquor at a spirits, beer, and wine restaurant located on contiguous property that is leased by that licensed distiller, domestic brewery, microbrewery, or domestic winery.

By Senators Prentice, Rasmussen, Kohl-Welles, McAuliffe and Hale.

Senate Committee on Labor, Commerce & Financial Institutions
 House Committee on Commerce & Labor

Background: Current law allows distillers, brewers and microbrewers, and wineries to sell liquor in restaurants that are contiguous to and owned by the distiller, brewer, or winery. This is called a Tied House law. One theory behind this type of law, common in many states, is that making food available for consumers who choose to drink provides a medically safer drinking environment.

Summary: The Tied House law is expanded to allow distillers, brewers, and wineries to sell liquor at leased restaurants that are contiguous.

Votes on Final Passage:

Senate 42 4
 House 92 1

Effective: June 13, 2002

SSB 6602
 C 47 L 02

Revising the crime of extortion in the second degree.

By Senate Committee on Judiciary (originally sponsored by Senators Costa, Long, Poulsen and Kastama).

Senate Committee on Judiciary
 House Committee on Criminal Justice & Corrections

Background: Extortion is defined in current statute as knowingly obtaining or attempting to obtain by threat the property or services of the owner, and specifically includes sexual favors. A person is guilty of extortion in the second degree if he or she commits extortion by means of a threat as defined in Washington statute.

A recent Washington Court of Appeals case, *State v. Pauling*, invalidated Washington's extortion statute. The court held "a statute that defines the word 'threat' to

include the communication of information that is not inherently wrong or unlawful sweeps too broadly to withstand constitutional challenge." It found Washington's extortion statute to be overbroad because it is not restricted to wrongful threats and does not include any defenses that would limit its application.

Summary: A person commits extortion in the second degree when he or she commits extortion (knowingly obtaining or attempting to obtain by threat the property or services of the owner) by means of a wrongful threat.

Votes on Final Passage:

Senate 49 0
 House 97 0

Effective: June 13, 2002

SB 6609
PARTIAL VETO
 C 364 L 02

Modifying the manner in which the department of ecology conducts studies.

By Senators Snyder, Deccio, T. Sheldon, Morton, Rasmussen, Honeyford, Hale and Hargrove.

Senate Committee on State & Local Government
 House Committee on Agriculture & Ecology

Background: The Department of Ecology (DOE) exercised its statutory authority to conduct a scientific study of the Willapa River, the results of which were disputed by the affected local governments. The local governments were unable to negotiate with DOE and hired a consultant to review the study. Ultimately, DOE agreed to problems with its study.

Summary: The Department of Ecology is required to involve local watershed planning groups, local governments, and affected and concerned citizens when conducting a total maximum daily load study for a water body, and to disclose pertinent study information. Any technical or procedural disagreements that arise during the process may be submitted to the director of the Department of Ecology for review. Disagreement with the director's review may be heard by an administrative law judge whose decision is final and who may order that the study be disregarded and award certain costs to the affected party, including the cost consultants.

Votes on Final Passage:

Senate 35 13
 House 71 26 (House amended)
 Senate 31 14 (Senate concurred)

Effective: June 13, 2002

Partial Veto Summary: The right of the parties to request a review and a remedy by means of an administrative hearing is vetoed.

VETO MESSAGE ON SB 6609

April 4, 2002

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 subsection 2(c), Senate Bill No. 6609 entitled:

“AN ACT Relating to studies conducted by the department of ecology;”

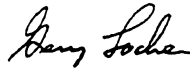
Senate Bill No. 6609 provides for public participation and comment on studies conducted by the Department of Ecology (DOE) in the implementation of chapter 90.48 RCW. It also provides for review of disputes by the DOE director, and requires disclosure of the underpinnings of studies and the data used in them, prior to finalization of the studies.

Subsection 2(c) of this bill would have set an undesirable precedent by barring appeal of administrative law judges' decisions, and potentially requiring DOE to pay for the costs of studies conducted by an aggrieved party. It is a basic principle of our system of law that parties who disagree with administrative law judges have a right to appeal the judges' determinations in court. Requiring an agency to pay a challenger's costs could have significant unforeseeable budget consequences.

For these reasons, I have vetoed subsection 2(c) of Senate Bill No. 6609.

With the exception of subsection 2(c), Senate Bill No. 6609 is approved.

Respectfully submitted,



Gary Locke
Governor

SB 6624
C 48 L 02

Modifying well construction provisions.

By Senators Keiser, Morton, Fraser and Hale; by request of Department of Ecology.

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

Background: Existing law governing construction of wells and payment of fees, Chapter 18.104 RCW, does not fully address current technology and practice for certain types of resource protection wells.

Summary: Environmental investigation wells and remediation wells are added to the definition of resource protection well, and each is also defined separately, based on current well construction technology and practice.

For environmental investigation wells that sample groundwater, up to four wells are covered by the \$40 base fee, with a \$10 fee for each additional well. There is no fee for soil or vapor sampling.

Refund of fees paid for wells that are subsequently not constructed requires submission of a refund request within 180 days to the Department of Ecology on a form provided by the department.

Votes on Final Passage:

Senate 45 0
House 97 0

Effective: June 13, 2002

SB 6627
PARTIAL VETO
C 175 L 02

Renaming, with regard to adult and juvenile offenders, "community service" as "community restitution."

By Senators Costa, Long, Hargrove, Kline, Kohl-Welles and Winsley.

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

Background: The term "community service" has long been associated with work performed as a result of a criminal conviction. There is a desire to remove that association for people who perform service for his or her community as volunteers or out of a sense of altruism.

Summary: The term "community service" is changed to "community restitution."

Votes on Final Passage:

Senate 43 0
House 93 0

Effective: July 1, 2002

Partial Veto Summary: Senate Bill 6627 changes references to "community service" in the criminal sentencing code to "community restitution." Substitute Senate Bill 6748 repeals penalties for people who have been issued a notice of infraction for abandoned vehicles. Section 34 of Senate Bill 6627 is not needed since it amends the language that is repealed in Substitute Senate Bill 6748.

VETO MESSAGE ON SB 6627

March 27, 2002

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 34, Senate Bill No. 6627 entitled:

“AN ACT Relating to community service;”

Senate Bill No. 6627 changes references to 'community service' in the criminal sentencing code to 'community restitution.'

Section 34 of this bill amends language that is repealed in section 3 of another bill, Substitute Senate Bill No. 6748. The Code Reviser has informed my office that signing both sections into law would require publishing both in the Revised Code of Washington, causing confusion and making corrective legislation necessary. Section 34 serves no purpose in light of the repeal of the affected language in the other bill.

For these reasons, I have vetoed section 34 of Senate Bill No. 6627.

With the exception of section 34, Senate Bill No. 6627 is approved.

Respectfully submitted,



Gary Locke
Governor

SB 6628
C 110 L 02

Establishing the probationary period for campus police officer appointees.

By Senators Kohl-Welles, Sheahan and Jacobsen; by request of University of Washington.

Senate Committee on Higher Education
House Committee on Higher Education

Background: Under current Washington law, the Washington Personnel Resources Board (WPRB) is required to adopt rules regarding the procedures pertaining to state personnel, including the probationary period required for newly appointed permanent employees. The WPRB has the authority to set probationary periods of six to 12 months for all employees except state park rangers, who must serve a 12-month probationary period. Currently, the Personnel Board has set the probationary period for all newly appointed campus police as 12 months from the date of their appointment.

The Washington State Criminal Justice Training Commission provides programs and standards for the training of criminal justice personnel. All law enforcement personnel, except volunteers and reserve officers, employed on or after January 1, 1978, are required to have basic law enforcement training that complies with the standards set out by the commission. The commission must provide this basic training along with all necessary facilities and materials.

Summary: The WPRB must adopt rules that set the probationary period of campus police officer appointees as 12 months. For appointees who are required to attend the Washington State Criminal Justice Training Commission basic law enforcement academy, the 12 months is from the date the officer successfully completes the academy. If academy training is not required, the 12-month probationary period is from the date the officer is appointed.

Votes on Final Passage:

Senate	49	0
House	93	0

Effective: June 13, 2002

SSB 6629
C 49 L 02

Requiring the administrator for the courts to create a family law handbook.

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Sheahan, T. Sheldon, Jacobsen, Oke, Hargrove, Swecker, Rasmussen, Honeyford, Shin and Winsley).

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

Background: Studies have shown that strong marital relationships result in stronger families, children, and ultimately stronger communities, and place less of a fiscal burden on the state. Providing people with information on laws relating to marriage and dissolution can help facilitate strong marital relationships.

Summary: The Administrator for the Courts must create a handbook explaining the laws pertaining to marriage, child support, dissolution, domestic violence, etc. The handbook is given by the county auditor to people filing a marriage license.

Votes on Final Passage:

Senate	44	3
House	90	7

Effective: June 13, 2002

ESB 6630
C 249 L 02

Providing for certification as a master electrician.

By Senators Prentice, Honeyford, Rasmussen and Sheahan.

Senate Committee on Labor, Commerce & Financial Institutions

House Committee on Commerce & Labor

Background: The Department of Labor and Industries currently certifies journeyman and specialty electricians, electrical trainees, electrical contractors and administrators. In order to obtain an electrical contractor license, a business must designate a certified administrator.

In order to become a specialty electrician, a person must complete two years of supervised work experience regardless of his/her educational background. There is concern that this work requirement is too high for people who have obtained electrical degrees from community or vocational colleges.

Summary: New certifications for master journeyman and master specialty electricians are created. In order to take the examination to become a master journeyman or specialty electrician, a person must be certified for four or two years, respectively. If an applicant has been certified for a requisite amount of time before July 2005, that

person may apply to become a master electrician without taking an examination. Elements of the master electrician examination are specified.

To obtain a general or specialty contractor license, an applicant can designate a certified master electrician in lieu of a certified administrator. A contractor must notify the department within ten days if a master electrician's or administrator's relationship with the contractor terminates. Administrator's certificates are valid for three instead of two years, and may be renewed without examination if the certificate holder completes an annual eight hour continuing education course. A person who holds more than one administrator's certificate is only required to pay a fee for one certificate. The department must set fees for administrative certificates and renewals by rule. The fees must cover, but not exceed, the costs of issuing certificates and enforcing electrician certification requirements.

Electrical training certificates are reviewed once every two years instead of once every year. Master electricians, in addition to other electricians, can supervise trainees. The ratio of certified to noncertified specialty electricians on a job site is extended to 1:4 if the trainees are part of a vocational or community college program. When trainees are part of a vocational or community college program, certified electricians must be on the job site for 100 percent of the work day instead of 75 percent.

Work requirements for journeyman and specialty electrician certification are measured by hours instead of years. Specialty electricians who have less than 4000 hours of work experience cannot credit their work hours toward qualifying to become a journeyman electrician.

"Two year electrical programs" are defined as consisting of at least 3000 hours, at least 2400 of which must be technical electrical instruction.

If an applicant for a specialty electrician certificate has completed a two-year community college or vocational school program, the applicant can substitute up to one year of school experience for one year of work experience. In addition, these individuals can work without supervision during the last six months of meeting their work experience requirements. The effect of these changes is that a person who completes a two-year community college/vocational school program can apply for certification after six months, not two years, of supervised work experience, and six months of unsupervised work experience. Persons enrolled in electrical school programs of less than two years can substitute up to half of the required work experience with school experience.

Applicants for the residential, pump and irrigation, sign, limited energy, or nonresidential maintenance specialties, or a restricted nonresidential maintenance specialty or any other new nonresidential specialty created by rule by the department, must have a minimum of 4000 hours of supervised work experience. Applicants

for all other specialties, including an appliance repair specialty created by rule by the department, must have a minimum of 2000 hours of work experience. The first 90 days of experience for these specialties, or a longer period of time if set by rule by the department, must be fully supervised. After this initial full supervision period, a person may take the specialty examination. If the person passes the examination, the person may work unsupervised for the balance of the hours required for certification. No noncertified person may work unsupervised more than one year beyond the date that they would be eligible to be certified if they were working on a full-time basis.

The department can revoke a certificate of competency if a person endangers the public or property, and can deny an application for up to two years if a person's certificate has been previously revoked.

The certified electrical specialty pertaining to "domestic appliances" is eliminated. The definition of "equipment" includes equipment that insulates, but does not include plug-in appliances or plug-in equipment determined by rule by the department.

Votes on Final Passage:

Senate	45	3	
House	9	1	(House amended)
Senate	43	0	(Senate concurred)

Effective: June 13, 2002

SSB 6635

C 244 L 02

Creating a notice and appeal process for animal control authorities.

By Senate Committee on Judiciary (originally sponsored by Senators Kastama, Kline and Rasmussen).

Senate Committee on Judiciary

House Committee on Criminal Justice & Corrections

Background: A Division 1 Court of Appeals case in October 1996 analyzed the conflict between a city ordinance prohibiting ownership of a vicious animal and a state statute requiring the owner of a dangerous dog to obtain a certificate of registration. An owner of a dangerous dog would not be able to comply with the state statute to obtain a certificate of registration because the city would never find a dog to be dangerous. The concurring opinion in the case concluded "... the city's scheme cannot be harmonized with the Legislature's scheme." In order to remedy this conflict, it is suggested that local jurisdictions be granted the authority in statute to enact additional restrictions upon owners of dangerous dogs or bar the ownership of such dogs.

Concern exists that the statute governing dangerous dogs does not set out a notice and appeal process for determinations of dangerous dog status.

Summary: The definition of dangerous dog includes any dog that inflicts severe injury on a human being without provocation, kills a domestic animal without provocation while the dog is off the owner's property, or has been previously found to be potentially dangerous because of injury inflicted on a human. Notice and appeal procedures are created for situations when an animal control authority seeks to declare a dog to be dangerous. If a city or county has a notification and appeal process already in place, they may continue to utilize its process. A local authority is not required to allow dangerous dogs within its jurisdiction.

Unless a city or county has a more restrictive code requirement, the animal control authority must issue a certificate of registration to the owner of a dangerous dog if the owner complies with all the requirements for ownership and control of a dangerous dog. The requirements include a proper enclosure and securement of a surety bond or liability insurance in the amount of \$250,000. If an animal control authority must confiscate a dangerous dog because the owner has failed to meet the requirements pertaining to ownership of a dangerous dog, notice of the deficiency and that the dog will be destroyed in 20 days if the deficiency is not corrected must be served on the owner. The owner must pay the costs of confinement while the dog is confiscated.

In a situation where a dangerous dog attacks or bites a person or domestic animal and the dog's owner has a prior conviction, it is an affirmative defense for the dog's owner if he or she can prove compliance with the requirements for ownership of a dangerous dog by a preponderance of the evidence. In addition the owner must prove that the person or animal attacked or bitten trespassed on the owner's property or provoked the dog without justification or excuse.

The owner of a dog that causes severe injury or death of a human, whether or not the dog has previously been declared potentially dangerous or dangerous, is, upon conviction, guilty of a class C felony. The state has the burden of showing that the owner of the dog either knew or should have known that the dog was potentially dangerous as defined in law. The state may not meet its burden of proof solely by showing that the dog is a particular breed or breeds. In such a prosecution, it is an affirmative defense that the person injured or killed trespassed on the defendant's property, which was properly fenced and marked with warning signs, or provoked the dog on the defendant's fenced and marked property.

Votes on Final Passage:

Senate	44	2	
House	84	9	(House amended)
Senate	42	0	(Senate concurred)

Effective: June 13, 2002

ESSB 6641

C 350 L 02

Accommodating children with diabetes in schools.

By Senate Committee on Education (originally sponsored by Senators McAuliffe and Thibaudeau).

Senate Committee on Education
House Committee on Education

Background: Diabetes is a chronic illness that results from failure of the pancreas to make insulin, a hormone used to convert sugar into energy. Without insulin, sugar accumulates in the bloodstream and will cause symptoms which can be fatal if not reversed.

It is estimated that one in 500 school-age children has diabetes which must be managed throughout the school day. Treatment includes receiving injections of insulin, testing blood sugar levels, eating nutritious meals and snacks to prevent dangerous fluctuations in blood sugar levels. Children can inject their own insulin and check their blood sugar levels. However, younger children are often not mature enough to manage their insulin needs throughout a school day. Most school districts do not have a school nurse in every school building to assist with diabetes management.

Schools are required by law to maintain safe conditions for children with diabetes and to that end the Office of Public Instruction has issued guidelines for managing diabetic children in schools. The guidelines prohibit nonlicensed staff from injecting insulin, or glucagon, a substance used in cases of extreme glucose deprivation. The guidelines also prohibit nonlicensed staff from testing blood sugar levels.

There is concern from families of diabetic children that schools inadequately provide for the safe supervision of diabetic children and that more adults in school buildings who can address symptoms and provide support to kids are needed.

Summary: School districts must adopt policies that describe the protocols that will be used to help students with diabetes management and treat their disease while the students are in school. A list of what protocols must, at a minimum, be addressed is included in the act. Each diabetic student shall have an individual health plan prepared that describes the protocols to be used with the student and the plan must be updated annually.

The Superintendent of Public Instruction and the Department of Health must develop a uniform policy regarding the training school districts must provide for staff on symptoms, treatment and monitoring of students with diabetes. Training is provided by a health care professional and may also be provided by a diabetes educator who is nationally certified.

Parents may designate an adult through proper legal procedures to assist the student in managing his or her diabetes. This parent-designated adult is defined in the

act and must file a written letter showing their intent to act in that capacity. Parents, rather than the school, are responsible for the training of the parent-designated adult.

Immunity from liability is provided for persons who provide assistance or services under this section if the person acts in good faith and in compliance with the school's policies and the student's individual health plan.

Votes on Final Passage:

Senate	44	2	
House	93	1	(House amended)
Senate			(Senate refused to concur)
House	97	0	(House amended)
Senate	46	0	(Senate concurred)

Effective: July 1, 2002

SB 6652
C 111 L 02

Regulating cosmetology, barbering, manicuring, and esthetics.

By Senators Prentice and Haugen.

Senate Committee on Labor, Commerce & Financial Institutions

House Committee on Commerce & Labor

Background: The Department of Licensing regulates the practices of cosmetology, barbering, manicuring, and esthetics. A cosmetologist deals with the care of hair on the scalp, face and neck, the care of nails of the hands and feet, and the treatment and care of the skin. The remaining areas of practice encompass a narrower range of functions.

All licensees must complete an approved curriculum at an approved school and pass both a practical and written examination. Typically, the school conducts the practical exam and the department administers the written exam. The training requirement is 1,600 hours for a cosmetologist, 1,000 hours for a barber, and 500 hours for a manicurist, an esthetician, and an instructor.

To be approved, a school must obtain a surety bond, an irrevocable letter of credit, or a savings assignment in an amount not less than \$10,000 or 10 percent of the annual gross tuition collected by the school.

An instructor-operator is a person who has the qualifications of a practitioner, instructs in the practice in a school, has at least 500 hours of instruction in teaching techniques and lesson planning, and has passed an exam. A person with an education degree and who otherwise qualifies may be licensed as an instructor.

The department also licenses the type of business within which the practice occurs including salon/shops, booth-renters, and all schools that conduct training.

Failure to renew a license before it expires subjects the licensee to a penalty fee and payment of each year's

renewal fee at the current rate if the holder renews the license within four years of the expiration date. Renewal may be allowed after that time period as determined by the director of the Department of Labor and Industries.

In 1998, the department and the advisory board completed a review of the industry and made recommendations in the areas of education, licensing, and enforcement of health standards. Some of the recommendations requiring legislative action are reflected in the proposed legislation.

Summary: Several changes are made in the licensing and regulation of cosmetology, barbering, esthetics, and manicuring as a result of a review of the industry and regulatory practices recently completed by the advisory board and the department.

Licensing: The practices of cosmetology, manicuring, and esthetics are further defined resulting in fewer overlaps in the functions performed under each license. Cosmetology includes a limited practice in manicuring and esthetics while the practices of manicuring and esthetics are updated and expanded to reflect actual current practice.

Licenses are further designated as individual licenses for those meeting the qualifications to practice and as location licenses for the business activity associated with the practice. Location licenses include salon/shops, mobile units, and personal services. A personal services license allows the practitioner to provide services to a client in a location convenient to the client, such as the client's home or office. Location licensees must certify that they hold public liability insurance of not less than \$100,000 prior to being licensed. The booth-renter license is eliminated and these licensees are to be licensed as salon/shops.

Failure to renew an individual license before it expires subjects the licensee to a penalty fee and payment of each year's renewal fee at the current rate if the holder renews the license within one year of the date of expiration. No renewal is allowed after that time period and a person seeking a license is treated as a new applicant.

Education and training requirements: The training requirements for manicurists and estheticians are increased from 500 hours to 600 hours.

A licensed practitioner may qualify as an instructor if he or she holds a state instructional certificate from a community or technical college and has passed an exam.

The department may set, by rule, the percentage of hours for which a student may receive credit for apprentice-type work in a salon/shop. The percentage is limited to 10 percent of the total curriculum hours required for licensing.

Prior to July 1, 2003, currently licensed cosmetologists may apply for separate licenses in manicuring and esthetics, and students enrolled in a licensed school in a cosmetology curriculum may apply for examination in

cosmetology, manicuring, and esthetics. After June 30, 2003, the curriculum hours for each area of practice must be met in order to apply for the examination and be licensed.

A school may no longer use letters of credit or savings assignments and may use only surety bonds as approved security.

Enforcement: A hearing is required before a fine of \$1,000 is imposed by the department for operating or instructing without a license.

Votes on Final Passage:

Senate	47	0
House	90	4

Effective: June 1, 2003

SSB 6658
C 276 L 02

Clarifying the types of energy conservation projects a public utility may assist its customers in financing.

By Senate Committee on Environment, Energy & Water (originally sponsored by Senators Poulsen, Hale, Regala, Morton, Fraser, Keiser and Rasmussen).

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

Background: In September 2001, the Attorney General issued an opinion (AGO 2001, No. 7) interpreting a provision of the State Constitution and public utility codes related to public financing of energy conservation measures.

Article VIII, Section 10 of the Washington State Constitution, which was originally enacted in 1979, and amended in 1988, states in relevant part:

"... any county, city, town, quasi municipal corporation, municipal corporation, or political subdivision of the state which is engaged in the sale or distribution of water, energy, or stormwater or sewer services may, as authorized by the legislature, use public moneys or credit derived from operating revenues ... to assist the owners of structures or equipment in financing the acquisition and installation of materials and equipment for the conservation or more efficient use of ... energy ... Any financing for energy conservation authorized by this article shall not be used for any purpose which results in a conversion from one energy source to another."

The Legislature has incorporated identical language from this constitutional provision into both the municipal utility code and the public utility district code. In addition, the Legislature has outlined a number of additional parameters for the implementation of the conservation loan financing programs, including contracting-out provisions and pay-back terms and methods.

The Attorney General's Opinion sought to answer the question of whether certain types of conservation measures would result in the "conversion of one energy source to another" such that a Public Utility District (PUD) would be prohibited from financing them through their conservation loan financing programs.

The opinion states, in relevant part:

"Thus, we believe the better interpretation of article VIII, section 10 is that a PUD cannot offer customers loans to switch from using energy supplied by the PUD to energy supplied by another source, including energy generation facilities installed by the customer. Nor can a PUD provide financing for materials or equipment that would result in a change of the kind of energy used--for example, from electricity to another kind of energy." (Emphasis added)

Summary: Legislative findings and intent are stated relating to the broad array of energy conservation opportunities available and the desire to support public financing of projects that allow customers to generate their own electricity.

A definition of allowable conservation purposes is added to the municipal utility code and the public utility district code for the purpose of clarifying the types of projects public utilities may assist their customers in financing.

The definition includes projects that allow a public utility's customers to generate all or a portion of their own electricity through on-site installation of solar, wind, geothermal, or mini-hydroelectric generating systems, or other distributable generation systems that use fuel from on-site renewable resources.

The projects may not be considered a "conversion from one energy source to another" as prohibited by law and the State Constitution, so long as they do not involve the substitution of one retail energy supplier for another retail energy supplier.

Votes on Final Passage:

Senate	46	0
House	96	0

Effective: June 13, 2002

SB 6664
C 50 L 02

Requiring offenders to propose a release plan.

By Senators Costa and Hargrove.

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

Background: The Department of Corrections (DOC) has established, under its statutory authority in the Community Placement Act of 1988, a program of supervising offenders in the community that has several aspects. Under the community custody aspect of the program, sex

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offenders and violent offenders who receive community custody in lieu of earned release time must propose a release plan including an approved address and living arrangement prior to a transfer to the community. This requirement has meant that some offenders have been unable to access their earned release time because they were unable to provide a plan that met DOC requirements. The requirement to propose an acceptable address and living situation is particularly challenging for some sex offenders and serious violent offenders and many of these offenders have reached the end of their determinate sentence in prison and were released on the date of their maximum term of incarceration.

On June 4, 2001, the Court of Appeals for Division I decided *In re Capello*, 106 Wn.App. 576. The *Capello* decision held that the authority conferred on DOC to establish a community placement program to supervise offenders in the community could not require DOC approval of residence addresses for sex offenders and serious violent offenders who committed crimes between 1988 and 1992 unless that requirement was part of the offender's sentence. At that time, the condition for residence approval was a special condition that could have been imposed by the sentencing court. The *Capello* court said that DOC did not have the authority to impose an approval condition where the court did not do so. In 1992, residence approval became a condition of sentence, unless waived by the court. The *Capello* decision does not address whether DOC could impose an address approval condition on offenders when the court waived the standard condition of address approval.

Certain offenses committed between 1988 and 1992, are still eligible for prosecution.

Summary: DOC has, and has had since the enactment of the Community Placement Act of 1988, the authority to require all offenders eligible for release to the community in lieu of earned release, to provide the department with a release plan that includes an approved address and living arrangement prior to any transfer to the community. This authority is independent of any court-ordered condition of sentence or statutory provision regarding conditions for community custody or community placement.

DOC must require all offenders with community custody or community placement terms who are eligible for release to community custody status in lieu of earned release, to propose a release plan that includes an approved residence and living arrangement prior to release to the community. DOC may deny transfer to the community if the proposed release plan, including the residence provisions of the proposed plan may:

- violate the conditions of sentence or the conditions of supervision;
- place the offender at risk to violate the conditions of the sentence;
- place the offender at risk to reoffend; or

- present a risk to victim safety or community safety.
This act applies retroactively.

Votes on Final Passage:

Senate	48	0
House	97	0

Effective: March 14, 2002

ESSB 6665

C 148 L 02

Establishing cost-benefit criteria for SR 167.

By Senate Committee on Transportation (originally sponsored by Senators Johnson and Keiser).

Senate Committee on Transportation
House Committee on Transportation

Background: The Department of Transportation is currently in the process of developing environmental impact statements for the SR 167/SR 405 intersection, the Port of Tacoma terminus, and the SR 167 extension to SR 509. The department has not studied the entire corridor between these points.

Summary: The Department of Transportation must plan and design an improved and expanded corridor from its intersection with State Route 405 in the north to a new terminus at the Port of Tacoma via proposed State Route 509 in the south. At a minimum, the environmental permit processes must be conducted in accordance with RCW 47.06 (SB 6188) and may include watershed based mitigation. The planning must be undertaken in preparation for the ultimate project to be designed and constructed using the design-build processes established under RCW 47.20.780 and 47.20.785 (HB 1680). The cost-benefit analysis process developed in HB 2304 may be used. No work associated with SR 167 which has been completed or is ongoing shall be delayed, restricted, or limited by this bill.

Votes on Final Passage:

Senate	49	0
House	93	0

Effective: June 13, 2002

ESB 6675

C 112 L 02

Prohibiting health care facilities from requiring employees to perform overtime work.

By Senators Prentice, Fairley, Rasmussen, Fraser, Keiser, Costa, Franklin and Spanel.

Senate Committee on Labor, Commerce & Financial Institutions

House Committee on Commerce & Labor

Background: Health care professionals are in short supply in the state. There is a concern that when such employees are required to work overtime, safety and quality of care will suffer.

Summary: Registered nurses and licensed practical nurses that are paid on an hourly basis may not be required to work overtime but may accept overtime work voluntarily. This prohibition does not apply to emergencies, pre-scheduled on-call time, or when the employer has used reasonable efforts to obtain staffing.

The Department of Labor and Industries must investigate violations and issue citations. Violations are subject to \$1,000 fines. During any calendar year, a fourth violation results in a \$2,500 fine and subsequent violation results in a fine of \$5,000 each.

Votes on Final Passage:

Senate	40	9
House	82	14

Effective: June 13, 2002

SB 6691
C 51 L 02

Authorizing five-member port commissions to have five commissioner districts.

By Senator Spanel.

Senate Committee on State & Local Government
House Committee on Local Government & Housing

Background: The governance of port districts is by commissioners who are nominated either at-large or by a commissioner district. All commissioners (either three or five) are elected at-large.

It is possible for a less-than-countywide port district in a county having a population of 500,000 or more to have three commissioner districts and five commissioners. This happens when two of the commissioners are both nominated and elected at-large. The mechanism for converting the two at-large commissioners into commissioners nominated by district, retaining all five commissioners, is not found in statute.

Summary: In port districts having three commissioner districts and five commissioners, two of whom are nominated at-large, the port district may be divided into five commissioner districts. This change may either be upon petition of 10 percent of the voters in the port district or by resolution of the port district's board of commissioners. In either case, the increase from three to five commissioner districts requires approval of the voters of the port district at the next general or special election.

Upon approval by the voters, the commissioner districts are redrawn to become five in number. All incumbent commissioners continue to represent a district for the remainder of their respective terms.

Votes on Final Passage:

Senate	45	3
House	97	0

Effective: June 13, 2002

SB 6698
C 277 L 02

Exempting reflexologists from regulation as massage practitioners.

By Senators Thibaudeau and Deccio.

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

Background: Reflexology involves applying varying amounts of pressure at specified points on the body, most often on the hands, feet, and ears. These points correspond to distant areas throughout the body.

Under the Massage Practice Act, reflexology is part of the practice of massage.

Summary: An exemption to the Massage Practice Act is provided for the practice of reflexology which is limited to the hands, feet, and outer ears. Additionally, the term "facial" is corrected to "fascial."

The Department of Health must review implementation of this act and make recommendations to the Legislature by December 1, 2005.

Votes on Final Passage:

Senate	40	8
House	96	0

Effective: June 13, 2002

ESSB 6700
C 336 L 02

Limiting the publication of personal information of law enforcement, corrections officers, or court employees.

By Senate Committee on Judiciary (originally sponsored by Senators Finkbeiner, Roach, Oke and McAuliffe).

Senate Committee on Judiciary
House Committee on Judiciary

Background: Over the interim, the names, telephone numbers, residential addresses, birth dates, social security numbers and other personal information about police officers and their relatives were published over the internet by an individual who was critical of law enforcement personnel. Concern exists that inappropriate dissemination of this information through the internet invades privacy rights and has caused harm for law enforcement personnel, court employees and volunteers for law enforcement agencies and courts.

ESSB 6702

Courts in Washington are expected to decide issues involving privacy interests, freedom of expression, and appropriate remedies for claims related to internet postings of personal information concerning law enforcement personnel and their relatives.

Summary: Unless exempt by law or court order, a person or organization who sells, trades, gives, publishes, distributes or otherwise releases the residential address, residential telephone number, birth date or social security number of any law enforcement-related, corrections officer-related, or court-related employee, volunteer or someone with a similar name can be liable for damages if (1) intent to harm or intimidate can be shown, (2) the person or organization categories the law enforcement-related, corrections officer-related, or court-related employee or volunteer by that occupation, and (3) the person or organization did not obtain express written permission.

The prosecuting attorney or person harmed by a violation of this provision may initiate a civil action to enjoin the violation. A law enforcement-related, corrections officer-related, or court-related employee or volunteer who suffers damages as result of a violation may recover actual damages, attorneys' fees, and costs. A court may issue a permanent injunction against a person or organization engaged in the violation.

Votes on Final Passage:

Senate	48	0	
House	97	0	(House amended)
Senate	45	0	(Senate concurred)

Effective: June 13, 2002

ESSB 6702

C 52 L 02

Protecting sibling relationships.

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Stevens, Hargrove, Long, Costa, Franklin, Kohl-Welles, Carlson, Hewitt, Kastama, Johnson, Shin, Swecker, Hale, Rossi, Oke, Zarelli, McCaslin, Horn, Thibaudeau, West, Deccio, Rasmussen, Parlette, Sheahan, Benton, McDonald, Roach, T. Sheldon, Hochstatter, Honeyford, Morton, Finkbeiner and Winsley).

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

Background: Although the Department of Social and Health Services (DSHS) is required to consider children's and families' multiple needs when assessing dependency cases, there is no requirement that DSHS or the courts take into consideration the need for siblings to maintain contact when a child is placed out of the home.

Summary: It is the Legislature's intent to presume that nurturing sibling relationships is in the best interests of

the child. DSHS must ensure that siblings are provided the opportunity to maintain their relationship through visits, as appropriate. DSHS must take into consideration the need to maintain regular sibling contact when conducting a social study for purposes of out of home care. The courts must consider ordering appropriate visitation between siblings who are separated as a result of a dependency determination within certain conditions.

Votes on Final Passage:

Senate	46	1
House	97	0

Effective: June 13, 2002

ESSB 6703

C 278 L 02

Changing timing provisions relating to agricultural liens.

By Senate Committee on Agriculture & International Trade (originally sponsored by Senators Rasmussen, Hochstatter, Shin, Sheahan, Swecker, Hewitt, Honeyford and Hale).

Senate Committee on Agriculture & International Trade
House Committee on Agriculture & Ecology

Background: The processor lien statutes provide a mechanism for protecting producers of agricultural products who deliver crops to processors that are failing financially. An automatic statutory lien is in place from the date of delivery until 20 days after payment is due and remains unpaid. The current law requires the producer to file a statement of lien within 20 days after payment is due and remains unpaid if the priority status of the lien is to be retained. In those cases that the date of payment is not stated in the contract, the statutes provide for the purpose of filing a processor lien, that payment is assumed to be due 30 days after delivery. The result is that to preserve a priority lien, a lien statement must be filed within 50 days of delivery if the contract does not specify a payment date.

To file a processor lien, a true statement containing the amount demanded after deducting all credits and offsets must be submitted to the Department of Licensing. Concern has been expressed by farmers that reports from processors showing cleaning rates and cleaning charges are not frequently available within the 50-day period.

If a lien statement is filed, the processor lien terminates six months after the later of the date of attachment or filing, unless a suit to foreclose the lien has been filed.

Summary: Clarification is provided that vegetable seeds are included in the agricultural products for the purposes of the chapter.

A producer may file a lien with either a true statement or a reasonable estimate of the amount due.

The period of time that a processor lien terminates without having to file a suit is extended from six months to 12 months.

Votes on Final Passage:

Senate 47 0
House 93 0

Effective: June 13, 2002

SB 6709
C 326 L 02

Addressing service and education planning for children in out-of-home care.

By Senators Eide, Costa, Rasmussen, Thibaudeau, Prentice, Fraser, Kohl-Welles, McAuliffe, Haugen and Keiser.

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

Background: A large proportion of children placed in foster care are taken out of the school they have regularly attended to accommodate the change in residence to the foster care placement. This disruption to a child's education may have a significant impact upon academic success.

Summary: The Department of Social and Health Services (DSHS) must, within existing resources, convene a workgroup and prepare a plan on educational stability for children in short-term foster care. The membership of the workgroup is: Children's Administration of DSHS, special education, transportation and apportionment divisions of OSPI, Washington State Institute for Public Policy, school districts, foster care advocates and others. The duties of the workgroup are to:

- determine the current status of school placement for children placed in short-term foster care;
- identify options and possible funding sources from existing resources which could be made available to assure that children placed in short-term foster care are able to remain in the school where they were enrolled prior to placement;
- submit recommendations to the Legislature by November 1, 2002, to assure the best interest of the child receives primary consideration in school placement decisions.

The Nooksack Valley and Mount Vernon school districts must implement a pilot project within existing resources to assist children in foster care fewer than 75 days to continue attending the school in which they were enrolled prior to entering foster care. The school districts must provide data to the working group studying this issue. The date for the pilot project to be implemented is April 30, 2002. DSHS must negotiate a plan with the schools for transporting the child but is not responsible for the cost of transportation.

Votes on Final Passage:

Senate 47 0
House 96 0 (House amended)
Senate 42 0 (Senate concurred)

Effective: April 2, 2002

ESB 6713
C 156 L 02

Making voluntary payroll deductions.

By Senators Jacobsen and Prentice.

Senate Committee on State & Local Government
House Committee on State Government

Background: No employer or other person or entity responsible for the disbursement of funds in payment of wages or salaries may withhold or divert a portion of an employee's wages or salaries for contributions to political committees or for use as political contributions except upon the written request of the employee. The request must be made on a form prescribed by the Public Disclosure Commission informing the employee of the prohibition against employee and labor organization discrimination (e.g., failure to contribute to or failure to support or oppose a candidate or ballot issue). The request is valid for no more than 12 months from the date it is made by the employee.

Summary: An employee's request to withhold a portion of wages or salaries for contributions to political committees or for use as political contributions is no longer subject to a time limitation. The employee must be notified, at least annually, of the prohibition against discrimination on political contributions. The employee may cancel a political contribution deduction at any time and must be notified at least annually about the right to revoke the request.

Votes on Final Passage:

Senate 25 22
House 57 39
House 54 41 (House reconsidered)
House 53 42 (House reconsidered)

Effective: July 1, 2002

ESB 6726
C 327 L 02

Protecting dairy farmers from unwarranted complaints.

By Senators Rasmussen and Honeyford.

Senate Committee on Agriculture & International Trade
House Committee on Agriculture & Ecology

Background: In 1993, it became mandatory for the Department of Ecology to investigate complaints filed

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against dairy farms for alleged violations of water quality laws. Written complaints must be investigated within three working days and a written report of the department's finding is to be issued.

In 1998, the state enacted the Dairy Nutrient Management Act that provides for the inspection of dairy farms. In addition, dairy farms must develop dairy nutrient management plans. These plans must be approved by the local conservation district by July 1, 2002, unless federal and state funding to support technical assistance is insufficient. A plan must be certified being fully implemented by December 31, 2003.

Oregon has had a system to reduce the number of unwarranted complaints against dairy farms.

Summary: The Department of Ecology may consider past complaints against the same dairy farm from the same person and the results of its previous inspections, and has discretion to decide whether to conduct an inspection if a similar complaint was filed during the preceding six months and there was no violation found. If the decision is to not conduct an inspection, the department must document its decision and notify the complainant and the dairy producer. Findings of inspections are to be retained in the department's administrative records.

Votes on Final Passage:

Senate	48	0
House	93	0

Effective: June 13, 2002

SB 6740

C 53 L 02

Authorizing irrigation districts to accept various methods of payment.

By Senators Rasmussen, Swecker, Shin and Parlette.

Senate Committee on Agriculture & International Trade
House Committee on Agriculture & Ecology

Background: The county treasurer of the county in which the office of an irrigation district is located often also serves as the treasurer of the irrigation district. However, within certain limitations, instead of using the county treasurer an irrigation district may choose another person with experience in financial or fiscal matters to serve as the treasurer of the district.

Currently, a county treasurer may accept credit cards, debit cards, and other electronic forms of payment for any payment due the county. A person desiring to pay taxes or payments related to taxes by electronic means bears the cost of processing the transaction in an amount determined by the treasurer.

Irrigation districts have not been given the statutory authority to accept credit cards, debit cards, and other electronic forms of payment.

Summary: Irrigation districts that have designated their own treasurers may accept credit cards, debit cards, and other methods of payment as specified for payment of any kind, including but not limited to assessments, fines, fees and rates.

A customer who wishes to pay by credit card, debit card, or other approved electronic method bears the cost of the transaction processing fee unless the board of directors of the irrigation district determines that it is in the best interests of the district to assume the cost of the transaction fees for a limited category of nonassessment payments.

Votes on Final Passage:

Senate	47	0
House	97	0

Effective: June 13, 2002

SSB 6748

C 279 L 02

Revising vehicle impound and transfer procedures.

By Senate Committee on Transportation (originally sponsored by Senators Kline, Oke, Swecker and Haugen).

Senate Committee on Transportation
House Committee on Transportation

Background: During the 2001 legislative session, several bills were introduced on issues surrounding abandoned vehicles and the timeliness in which vehicle ownership information is available to proper authorities when an ownership change occurs. The bills included several different solutions, some of which conflicted. As a result, the 2001 transportation budget included a proviso directing a task force to look into issues surrounding the process of selling and titling of vehicles, and the process involved when a vehicle is abandoned.

Summary: The penalty for abandoning a vehicle is \$250 and suspension of driving privileges until penalties and restitution is paid. The classification for a traffic infraction titled "littering-abandoned vehicle" is created.

When a previously abandoned vehicle is sold at a public auction, liability for the operation of the vehicle is transferred at the point of sale forward from the previous owner to the purchaser of the vehicle as evidenced by the buyer information on the abandoned vehicle report. Tow operators must send a copy of the abandoned vehicle report to the Department of Licensing, instead of the Washington State Patrol Crime Information Center, upon selling a vehicle at public auction to record the vehicle's buyer information.

The Department of Licensing must create a system enabling tow operators to send in the abandoned vehicle report electronically.

The Department of Licensing must create a system where individuals who sell a vehicle can submit their seller's report of sale via the internet.

The statute is changed to clarify that if a seller's report of sale is not filed within the statutorily required five days, the seller is not relieved of liability.

A tow truck operator must have the option of scrapping a "junk" vehicle that has been abandoned twice without a title change. The value used in determining if a vehicle is a "junk" vehicle is changed from the value of the scrap to the value of the parts of the vehicle.

Under certain circumstances, a tow operator may refuse a bid at a tow auction.

Law enforcement agencies must adopt the Washington State Patrol's standard procedures for impounding vehicles, which includes instruction on locating and recording public vehicle identification numbers which are necessary to complete the impound form.

The Washington State Patrol, along with local law enforcement agencies, must administer a task force during the 2002 interim to study the advantages and disadvantages of requiring law enforcement agencies to immediately transmit the registered and legal ownership information to the tow company electronically or by facsimile. The Department of Licensing must study the feasibility of requiring sellers to remove a vehicle's license plate at the time of sale.

Votes on Final Passage:

Senate	48	0	
House	93	0	(House amended)
Senate	43	0	(Senate concurred)

Effective: June 13, 2002

SB 6763
C 351 L 02

Creating a task force on services for crime victims.

By Senators Costa, Hargrove, Long, Carlson, Winsley and Kohl-Welles.

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

Background: Services available to crime victims vary widely between communities and often by the types of crime committed.

Summary: The Department of Community, Trade and Economic Development, Office of Community Development (OCD) must staff a newly created Washington State task force on funding for community-based services to victims of crime. The Director of OCD serves as chair and selects as many as 15 additional task force members. The Secretary of the Department of Social and Health Services and the Director of the Department of Labor and Industries also serve as members. The task

force must measure and evaluate how the state funds community-based organizations providing services to underserved victim populations. Task force activities shall also include identifying federal, state, local, and private funds, including those from foundations and other nonprofits that may be available for community-based crime victim programs, make recommendations regarding assistance and funding, and identify statutory and administrative barriers to improving services to crime victims.

The task force reports its findings to the Governor and the Legislature by November 2002.

Votes on Final Passage:

Senate	48	0	
House	88	6	(House amended)
Senate	41	0	(Senate concurred)

Effective: June 13, 2002

SSB 6787
C 113 L 02

Exempting organ procurement organizations from taxation.

By Senate Committee on Ways & Means (originally sponsored by Senators B. Sheldon, Rasmussen and Oke; by request of Department of Revenue).

Senate Committee on Ways & Means
House Committee on Finance

Background: The business and occupation (B&O) tax is Washington's major business tax. This tax is imposed on the gross receipts of business activities.

Retail sales and use taxes apply to the sale or use of tangible personal property and of certain services acquired at retail. Sales and use taxes apply to the selling price or value of the item. 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.

As a general rule, nonprofit organizations are subject to state and local taxes unless there is a specific statutory exemption. Exemption from federal income tax does not automatically provide exemption from state and local taxes.

Nonprofit blood, bone, and tissue banks are exempt from B&O tax to the extent their gross receipts are exempt from federal income tax. Nonprofit blood, bone, and tissue banks are exempt from sales and use taxes on medical supplies, chemicals, and most other materials used for the bank. However, construction materials, office equipment, building equipment, administrative supplies, and vehicles are not exempt.

Summary: Income of nonprofit organ procurement organizations is exempt from the B&O tax to the extent that it is exempt from federal income tax. The purchase

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or use of medical supplies, chemicals, or specialized materials for nonprofit organ procurement organizations is exempt from sales and use tax. The sales and use tax exemption does not apply to construction materials, office equipment, building equipment, administrative supplies, or vehicles.

Votes on Final Passage:

Senate	48	0
House	94	0

Effective: March 22, 2002

SB 6788

C 54 L 02

Authorizing a travel payment for out-of-state parents of homicide victims.

By Senators Costa and Hargrove.

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

Background: Crime victims compensation (CVC) benefits are available for dependent family members of victims of crime. It is not unusual for surviving family members to have extraordinary expenses related to the necessary travel to attend a criminal trial, in particular if they do not live in Washington State, or must travel from overseas. Current law makes no provision for the extraordinary expenses related to overseas or out-of-state travel.

Summary: Dependent parents or stepparents of a crime victim are eligible for a lump sum benefit payment if they are asked by a law enforcement agency or prosecutor to attend a criminal trial related to the death of the victim. Eligible parents may receive a total of \$7,500. If more than one dependent parent is eligible for such a payment, it must be divided among them equally. This sum is not in addition to the other CVC benefits to which the parents are entitled, but is deducted from the benefit total if it is greater than \$7,500. If the total benefit to which the dependent parents are entitled is less than \$7,500, they are entitled to the greater amount of \$7,500.

Votes on Final Passage:

Senate	48	0
House	97	0

Effective: June 13, 2002

SB 6798

C 55 L 02

Revising provisions relating to street vacations.

By Senators Horn and Gardner.

Senate Committee on Transportation
House Committee on Transportation

Background: Owners of property that abuts a street or alley may petition to have the street or alley vacated and acquire that portion of the vacated street or alley that abuts their property. A city or town may also initiate a vacation procedure.

A city or town may only receive the full appraised value for street right-of-way property if it has been owned by the city for more than 25 years. For property held less than 25 years, the city or town may receive one-half of the appraised value. Half of the revenue from vacating street rights-of-way must be used for open space or transportation capital projects within the city or town.

Summary: A city or town may receive the full appraised value for street right-of-way property if it has been owned by the city for more than 25 years or the property was acquired at public expense.

Votes on Final Passage:

Senate	47	0
House	97	0

Effective: June 13, 2002

SSB 6814

C 352 L 02

Revising transportation fees.

By Senate Committee on Transportation (originally sponsored by Senator Haugen).

Senate Committee on Transportation
House Committee on Transportation

Background: The Department of Licensing (DOL) collects the vast bulk of all transportation fees and taxes. DOL was asked to examine its transportation related fees and determine if the existing fees are recovering the cost to collect those fees. As a result of the fee analysis, DOL has identified numerous fees that are not covering the cost of collection.

Summary: Transportation fees are increased. They are: Duplicate Drivers Licenses, Identical cards, Duplicate Identical cards, Photo and Non-photo Instruction Permits, Duplicate Instruction Permits, Copies of Driver Records, Title Applications, Trip Permits, and \$30 registration fees on travel trailers, personal trailers greater than 2,000 pounds, and mopeds. Additionally, the following fees were raised: agricultural permits, commercial driver school fees, motorcycle application and instruction fees,

vehicle dealer fees, temporary off-site sub-agency applications, and international fuel tax agreement decals.

Votes on Final Passage:

Senate 44 5
 House 56 41 (House amended)
 Senate 41 5 (Senate concurred)

Effective: July 1, 2002
 September 1, 2002 (Sections 7, 9 and 28)
 October 1, 2002 (Section 26)

SB 6818
 C 240 L 02

Concerning the issuance of state general obligation bonds.

By Senators Fairley and Zarelli.

Senate Committee on Ways & Means
 House Committee on Capital Budget

Background: Washington State is on a biennial budget cycle. The Legislature authorizes expenditures for capital needs in the capital budget for a two-year period, and authorizes bond sales through passage of a Bond Bill associated with the capital budget. The current capital budget covers the period from July 1, 2001, through June 30, 2003.

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.

In 1979, the Legislature enacted a statutory 7 percent debt limit in addition to the existing constitutional 9 percent debt limit. Under this statutory limitation, debt service may not exceed 7 percent of the three year average of general state revenues. There exist various statutory exceptions to this limit.

Summary: The State Finance Committee is authorized to issue up to \$89.7 million of state general obligation bonds to finance projects appropriated in the 2001-03

supplemental capital budget. The authority is only for appropriations made in the 2001-03 biennium.

The State Treasurer is required to withdraw from state general revenues the amounts necessary to make the principal and interest payments on the bonds and to deposit these amounts into the bond retirement account.

The definition of "general state revenues" used for calculating the statutory debt limit is broadened to include the real estate excise tax (REET).

Votes on Final Passage:

Senate 48 1
 House 63 35 (House amended)
 Senate 43 1 (Senate concurred)

Effective: March 28, 2002

SB 6819
 C 33 L 02

Making temporary amendments to the state's expenditure limitations to address the revenue shortfall in the 2001-2003 biennium.

By Senators Brown and Snyder; by request of Office of Financial Management.

Senate Committee on Ways & Means

Background: Initiative 601, enacted in 1993, established a state expenditure limit, an Emergency Reserve Fund, and restrictions on state fee and revenue increases.

Under the initiative, a two-thirds vote of the Legislature is required for any action of the Legislature that raises state revenue.

The initiative also established an Emergency Reserve Fund, which receives all state General Fund revenue in excess of the state expenditure limit. When the Emergency Reserve Fund reaches 5 percent of annual General Fund revenues, the excess amounts are deposited to the Student Achievement Fund (created by Initiative 728) and the General Fund. Appropriations from the Emergency Reserve Fund require a two-thirds vote of each house of the Legislature.

As of February 2002, the Emergency Reserve Fund contains \$384 million. Because Fiscal Year 2002 revenues (\$11.03 billion) are projected to be less than the FY 2002 state expenditure limit (\$11.25 billion), additional deposits to the Emergency Reserve Fund are not expected during the current fiscal year.

Summary: During the 2001-03 fiscal biennium, actions of the Legislature that raise state revenue may be taken by a majority vote of each house of the Legislature, but only if the action does not cause expenditures to exceed the state expenditure limit.

During the 2001-03 fiscal biennium, actions of the Legislature that transfer money from the Emergency Reserve Fund may be taken by a majority vote of each

SSB 6823

house of the Legislature, but only if the transfer does not cause expenditures to exceed the state expenditure limit.

Votes on Final Passage:

Senate 26 23
House 50 46

Effective: March 13, 2002

SSB 6823

C 353 L 02

Regarding the salary formula for state-funded basic education certificated instructional staff.

From Senate Committee on Ways & Means (originally sponsored by Senators Finkbeiner and McAuliffe).

Senate Committee on Ways & Means

Background: RCW 28A.150.410 requires the Legislature to establish in the appropriations act a salary allocation schedule to distribute state funds to school districts for basic education certificated instructional staff in the apportionment and special education programs. The salary allocation schedule is one of the documents used by the state to account for differences in the education and experience of each district's certificated instructional staff. Typically, the greater the experience and education of a district's staff, the higher the pay.

Currently two other documents are referenced in the appropriations act: a listing of each district's state funded beginning teacher salary; and a table of increments for experience and education. The salary allocation schedule by itself is not sufficient to calculate the salary allocation because there are 34 school districts with state funded salary levels above the salary schedule published in the appropriations act. Therefore, the statute is not consistent with the Legislature's method of funding certificated instructional staff salaries.

The calculation of average certificated instructional staff salaries is limited to two programs, apportionment and special education. The recently enacted federal "No Child Left Behind Act" and Initiative 728 provide school districts with funds that can be commingled with state basic education funds. This allows school districts some latitude in determining which program to assign a teacher to. If a district assigns its more experienced teachers and more educated teachers to the state basic education program and its less experienced teachers to the other programs, the district can increase its allocation of state funds.

Summary: The Superintendent of Public Instruction, when calculating salary allocations for certificated instructional staff, is required to use the state salary allocation schedule and related documents, conditions and limitations established by the omnibus appropriations act.

Votes on Final Passage:

Senate 48 0
House 50 47

Effective: September 1, 2002

SB 6828

C 365 L 02

Securitizing a portion of the state's revenue from the tobacco litigation national master settlement agreement.

By Senators Brown and Swecker.

Senate Committee on Ways & Means

Background: In June 1996, the state of Washington brought suit against the major tobacco companies, seeking reimbursement for costs incurred in treating tobacco-related illnesses as well as damages for violations of consumer protection and anti-trust laws. On November 23, 1998, the Attorneys General and other representatives of 46 states announced a national settlement with the five largest tobacco manufacturers. The settlement of Washington's case was approved by the King County Superior Court and the decision became final on December 24, 1998.

The national master settlement agreement requires annual payments by the companies to the participating states; up to \$206 billion will be received during the first 25 years of the agreement. The state of Washington is scheduled to receive approximately \$4.0 billion during the first 25 years, with \$323 million received during the 1999-01 fiscal biennium. The settlement agreement does not restrict the state's use of the moneys; the Legislature may direct the moneys to be expended for any purpose. During the 1999-01 and 2001-03 biennia, the moneys have been used to support a tobacco prevention and control program in the Department of Health and to support the Basic Health Plan and other health programs funded by the Health Services Account.

Summary: The Tobacco Settlement Authority is established as a state agency, governed by a five-member board appointed by the Governor, with administrative support provided by the staff of the state Housing Finance Commission, an existing state agency.

The Governor is authorized to sell to the Tobacco Settlement Authority the right to receive a portion of the state's annual share of the revenue from the national master tobacco settlement agreement in order to generate \$450 million net proceeds to the state General Fund.

To raise the revenue necessary to purchase the share of the state's tobacco revenues, the Tobacco Settlement Authority is authorized to issue revenue bonds. These bonds are not general obligations of the state of Washington and are backed solely by the revenues received from the tobacco manufacturers.

Votes on Final Passage:

Senate 25 24
 House 50 46 (House amended)
 Senate 25 23 (Senate concurred)

Effective: April 4, 2002

SB 6832
 C 200 L 02

Establishing department of social and health services authority to purchase interpreter services for public assistance recipients.

By Senators Brown, Winsley, Thibaudeau, Deccio and Franklin.

Senate Committee on Ways & Means

Background: The Department of Social and Health Services (DSHS) will provide income and medical assistance and other social services to an average of at least 75,000 persons per month this year who have limited English-speaking ability. Federal civil rights rules require the department to arrange or provide interpreter services to the extent necessary to assure equal access to services for persons with limited English-speaking ability. DSHS expects to spend about \$24 million next year on interpreter services.

Throughout most of the 1990's, DSHS purchased most interpreter services as direct client services, which are exempt from the competitive procurement provisions of state purchasing statutes. DSHS contracted with any qualified interpreter who was willing to accept a standard rate established by the department. In 1995, because of concerns about inadequate monitoring, coordination, and control, DSHS sought to institute a "brokerage" model for interpreter services, similar to the one it has used for a number of years for transportation services. The broker receives a fee to schedule and coordinate the linkage of clients with their appointments across DSHS programs. Unsuccessful bidders for the brokerage contract successfully sued on the grounds that the department had not complied with all applicable state procurement statutes.

Since early 1999, DSHS has purchased most interpreter services from agencies selected through a competitive procurement process conducted jointly by DSHS and the Department of General Administration. Agency rates under these contracts average about \$36 per interpreter hour. Prior to April 1999, the DSHS Medical Assistance Administration was paying about \$23 per interpreter hour for agency services, and \$16 per interpreter hour for individual providers, under the "any qualified provider" contracting model.

Summary: Interpreter services and interpreter brokerage services are exempt from the statutes governing procurement of non-client services. DSHS is directed to

procure and deliver these services through whatever means it determines to be most cost-effective.

Votes on Final Passage:

Senate 48 0
 House 96 1

Effective: June 13, 2002

SSB 6833
 C 366 L 02

Revising medical care eligibility for certain immigrants.

By Senate Committee on Ways & Means (originally sponsored by Senators Brown, Winsley, Thibaudeau and Franklin).

Senate Committee on Ways & Means

Background: Under federal law, immigrants who cannot document that they are residing in the country legally, and most of those who have entered the country legally within the previous five years, are not eligible for most Medicaid services. Under state law, both groups are eligible for the same services which they would receive under Medicaid, with the state covering 100 percent of the cost. The Department of Social and Health Services estimates that it will spend approximately \$28 million providing "state-only" medical assistance next year, on behalf of about 27,000 immigrants per month. About 4,200 will be children and adults who have immigrated legally within the previous five years. About 22,800 will be children whose families cannot document their legal residency.

Both groups of immigrants are eligible for Medicaid coverage of emergency medical conditions and for enrollment in the state's Basic Health Plan.

Summary: Full-scope coverage under the state medical assistance program is only available to the extent that persons are eligible for Medicaid.

Votes on Final Passage:

Senate 45 0
 House 52 45

Effective: October 1, 2002

SB 6835
 C 367 L 02

Revising use tax provisions.

By Senator Poulsen.

Senate Committee on Ways & Means

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.

Sales tax applies to items purchased from in-state and is collected by the seller. Sales tax is calculated on the "selling price" of an article, which includes delivery charges.

The use tax is imposed on the use of articles of tangible personal property when the sale or acquisition has not been subject to the sales tax. The use tax commonly applies to purchases of tangible personal property from out-of-state firms. The use tax does not apply to service upon which a sales tax has been imposed. The purchaser is required to report use taxes due. Use tax is calculated on the "value" of an article, which statute does not specify includes delivery charges.

Out-of-state printers currently have an advantage over in-state printers on direct mail advertising for in-state retailers because the in-state retailer is subject to the sales and use tax on items printed in this state but not on items printed outside the state. This resulted from a 1981 Thurston County Superior Court decision in which it was held that catalogs shipped directly from an out-of-state printer to customers in this state had not been "used" by the in-state retailer who had contracted for the printing and shipment. The retailer therefore was not subject to use tax. This was in spite of the fact that the statutes had been amended to include any person who causes property to be distributed to promote the sale of products or services. The court may have been influenced by the fact that the use tax did not apply to personal property purchased or manufactured outside the state "until the transportation of the article finally ended in this state." This latter provision was an acknowledgment that the federal commerce clause prevented the state from taxing the activity. However, in 1988, the United States Supreme Court upheld the imposition of Louisiana's use tax on catalogs shipped directly to Louisiana residents by an out-of-state printer with whom an in-state retailer had contracted, and the Washington Legislature removed the interstate transportation language in 1994. Therefore, there currently are no legal constraints on the taxation of this activity.

The state sales tax rate is 6.5 percent and is applied to the selling price of the article or service. In addition, local sales taxes apply. The total rate is between 7 percent and 8.9 percent, depending on the location.

Summary: The use tax is imposed on the installing, repairing, cleaning, altering, imprinting, or improving of tangible personal property. The effect of the act is to tax services performed outside the state on tangible personal property used in this state.

For the purposes of calculating the use tax, delivery, shipping, freight, or like transportation charges are included in the value of an article.

Statutes are modified to clarify that use tax is due on direct mail advertising printed out of state and mailed

directly to Washington residents to promote the sale of goods or services.

Votes on Final Passage:

Senate 28 19
House 56 42

Effective: June 1, 2002

SJM 8001

Exploring the option of managing prescription drug prices through cooperative strategies with other Northwest states.

By Senators Franklin, Thibaudeau, Winsley, Costa and Kohl-Welles.

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

Background: Influenced by price increases, greater utilization, and changes in the types of prescriptions used, national expenditures for prescription drugs have been one of the fastest growing components of health care spending in the past decade, increasing 15 percent from 1997 to 1998, compared to 5 percent for all personal health care spending. In the past five years, the increases in prescription expenditures have been two to four times the percent change in expenditures for most other health care services.

This increase in prescription drug expenditures has contributed to the significant growth in the cost of state health care programs. There is also concern that for those not enrolled in a public program or otherwise without prescription drug coverage, some drugs are simply not affordable. In other parts of the country, neighboring states have worked cooperatively in an attempt to address prescription drug expenditure issues.

Summary: The increasingly significant contribution of prescription medications to managing and treating illness is recognized, but concern is expressed about their cost to the general public and to government health care programs. It is suggested that certain practices at the federal level have contributed to these high costs and made it more difficult for states to address the problem. Washington State officials are called on to explore the possibility of working in concert with other Northwest states to ensure reasonable prescription medication prices through such strategies as joint pricing and purchasing agreements.

Votes on Final Passage:

Senate 46 0
House 97 0

SJM 8004

Petitioning Congress to appropriate support for an oil spill prevention tugboat in the Strait of Juan de Fuca.

By Senators Spanel, Swecker, Patterson, Hargrove, Costa, Eide, Fraser, Thibaudeau, Franklin, Regala, Gardner, Prentice, Kline, Kohl-Welles and Haugen.

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

Background: The Strait of Juan de Fuca covers the marine waters located between the state of Washington and Canada. The marine vessel traffic through the strait is projected, by the United States Coast Guard, to increase in volume by 50 percent from the year 2000 to the year 2025. Additionally, the volume of petroleum transported in the region is projected to increase substantially in the near future. The growth in commercial vessel transits and the increased petroleum movement increases the risk of an oil spill in this region.

The federal government is recognized as having many interests in these marine waters. Those interests include: the international relationship with Canada, the trustee responsibility related to the Olympic National Marine Sanctuary and the Olympic National Park, the protection of tribal treaty rights, the federally designated threatened and endangered species, the federal use of the waters for its naval operations, and the stabilization of the energy resources for the western states.

At the present time, there is a rescue tugboat stationed in Neah Bay, at the western end of the strait, for the purpose of oil spill prevention. At the present time the tugboat is funded solely by Washington State and is projected to be in service for approximately 200 days, starting September 15, 2001.

It is suggested that the federal government should share the expense of stationing an oil spill prevention tugboat in these waters.

Summary: Congress is requested to appropriate sufficient money to support a permanently stationed and adequately-sized oil spill prevention tugboat, with rescue, fire fighting, spill response, and lifesaving capabilities, at the westward end of the Strait of Juan de Fuca.

Votes on Final Passage:

Senate	44	4
House	88	9

ESJM 8014

Requesting improvement to employment and training services for disabled persons.

By Senators Prentice, Winsley, Costa, Deccio, Thibaudeau, B. Sheldon, Fairley, Franklin, Shin, Rasmussen, Regala, Kastama, Patterson, Hochstatter, Gardner, Haugen, Honeyford, Constantine, Jacobsen, McAuliffe, Oke and Kohl-Welles.

Senate Committee on Labor, Commerce & Financial Institutions

House Committee on Commerce & Labor

Background: Persons with disabilities have an unemployment rate of nearly 70 percent. The disability community is the largest potential source of workers within Washington that can help meet the needs of state businesses looking for skilled workers.

Summary: The executive officers of the Employment Security Department, the Department of Services for the Blind, the Developmental Disability Council, the Division of Vocational Rehabilitation in the Department of Social and Health Services, the Governor's Committee on Disability Issues and Employment, the Office of Superintendent of Public Instruction, and the Workforce Training and Education Coordinating Board are requested to work together to carry out a number of functions related to employment and training of people with disabilities. The functions include identifying effective employment and training services, barriers to service delivery, and measures to evaluate success.

The agency executives are also asked to provide training and technical assistance to local workforce boards to improve outreach and delivery of services to people with disabilities. In addition, they are requested to both make recommendations on statutory or administrative changes needed to improve employment and training services for people with disabilities and to report on outcomes to the Legislature and the Governor.

Votes on Final Passage:

Senate	46	0	
House	94	0	(House amended)
Senate	41	0	(Senate concurred)

ESJM 8023

Requesting full funding for the cleanup of the Hanford Reservation.

By Senators Hale, Fraser, Eide, Regala and Roach.

House Committee on Agriculture & Ecology

Background: The primary mission of the Hanford Reservation throughout its history was the production of plutonium. Reactor operations generated several waste streams including solid waste that was disposed of in

burial grounds, low level liquid waste that was disposed of in the soil, and reactor cooling water, another form of low level liquid waste. The waste still contaminates and poses a substantial risk to the environment at the site.

In 1989, a Tri-Party Agreement regarding the clean up of the Hanford site was signed by the State of Washington, the United States Environmental Protection Agency, and the United States Department of Energy. The agreement provides a schedule with milestones to clean up Hanford over a 30-year period.

The Department of Energy has two field offices at Hanford. The Richland Operations Office is responsible for site cleanup and science and technology. The Office of River Protection is responsible for tank waste treatment. The President's proposed budget, for fiscal year 2003, funds both of these offices at levels below the amount necessary to meet the obligations of the Tri-Party Agreement.

Summary: The President, Congress, and the Secretary of the United States Department of Energy are requested to fully fund the needs of a sustained environmental cleanup at the Hanford Reservation. Full funding is requested to meet the requirements of federal and state law, the Tri-Party Agreement, and to provide environmental protection for the Columbia River and the citizens of the state of Washington.

Votes on Final Passage:

Senate	46	0
House	97	0

SJM 8031

Encouraging re-authorization and full funding of the renewable energy production incentive.

By Senators Hale and Fraser.

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

Background: The Renewable Energy Production Incentive (REPI) is part of an integrated strategy in the federal Energy Policy Act of 1992 to promote increases in the generation and use of electricity from renewable energy sources and to further the advances of renewable energy technologies. Congressional authorization for the REPI program expires in 2003.

The REPI program provides financial incentive payments for electricity generated and sold by new qualifying renewable energy facilities that are owned by public and not-for-profit entities, such as municipal utilities, public utility districts, and rural electric cooperatives. Qualifying facilities must use solar, wind, or certain geothermal or biomass generation technologies.

Qualifying facilities are eligible for annual incentive payments of 1.5 cents per kilowatt-hour for the first ten

years of operation. Payments are subject to the availability of annual appropriations in each federal fiscal year. Appropriations have not been sufficient to make full incentive payments to all qualifying facilities since 1996. When funds are insufficient, payments are made first to Tier I facilities (which include those that use solar, wind, geothermal, or dedicated energy crop biomass technologies), and then pro-rated, as available, to Tier II facilities (which include other biomass technologies such as landfill methane gas, digester gas, and co-fired plant waste).

Two Washington State public utilities have received more than \$4.75 million in REPI payments since the beginning of the program.

The REPI program is the public-sector counterpart to the production tax credit program authorized in the same Energy Policy Act for private utilities that build new qualifying renewable generating facilities by December 31, 2001. The production tax credit program provides a credit against federal taxes of 1.5 cent per kilowatt-hour produced for the first ten years of operation.

Summary: The Legislature requests the President and Congress to reauthorize the Renewable Energy Production Incentive (REPI) for an additional ten years, with such modifications as are needed to provide greater certainty of payment and, therefore, greater incentives to qualified renewable energy projects. The Legislature also requests a level of funding that maximizes the potential for development of new renewable resources by not-for-profit utilities.

Votes on Final Passage:

Senate	49	0
House	97	0

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 sets out conditions for exemptions from the Public Disclosure Act for certain security-related public records and directs a review to be completed by November 2004.

The Permit Assistance Center is moved from the Department of Ecology to the Governor's Office by legislation requiring sunset review of the center in 2006 with the legislation expiring in 2007.

Legislation also extended the termination date of the linked deposit program from June 30, 2003 to 2004 and extended the repealer of the act from June 30, 2004 to June 30, 2008.

Legislation directed that a performance audit be performed on the new contracting-out provisions of the Civil Service Act, with a report due by January 2007.

Programs Added to Sunset Review

Program to exempt security-related public records from disclosure SSB 6439 (C 335 L 02)

Moving the Permit Assistance Center from the Department of Ecology to the Governor's Office E2SHB 2671 (C 153 L 02 PV)

New contracting-out provisions of the Civil Service Act SHB 1268 (C 354 L 02 PV)

Program with Sunset Date Extended

Linked Deposit Program SHB 2456 (C 305 L 02)

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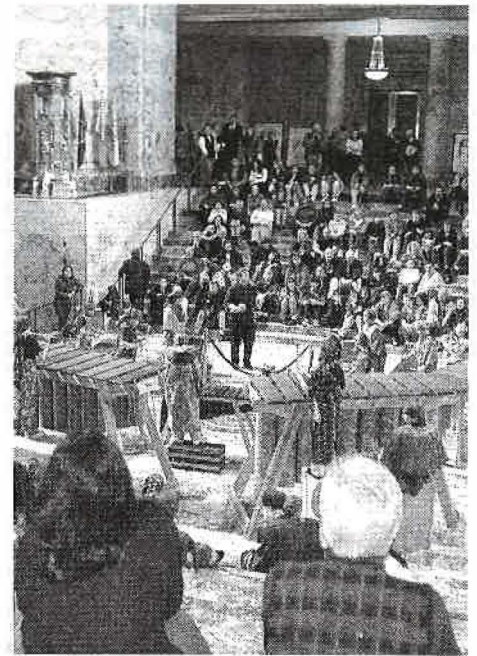
SECTION II

BUDGET INFORMATION

OPERATING BUDGET

CAPITAL BUDGET

TRANSPORTATION BUDGET



The State Capitol was designed to accommodate the type of public participation that was the norm in 1928. Today, public participation has grown and changed while public space in the building has not.

The rehabilitation of the 1st floor represents the most visible change to the building. The central area, currently occupied by the cafeteria, will be reconfigured as public space and two adjoining spaces immediately east and west of the central area will be added. There are several options available for the use of this space; the primary emphasis is on developing public spaces that are flexible in nature.

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2002 Supplemental Budget Overview

Washington State biennial budgets authorized by the Legislature in the 2002 Session total \$51.76 billion. The omnibus operating budget accounts for \$43.07 billion. The transportation current law budget and the omnibus capital budget account for \$4.58 billion and \$4.11 billion, respectively. In addition to these amounts, the Legislature passed a separate transportation new law budget that is dependent on passage of Referendum 51 by the voters in November 2002. The transportation new law budget contains additional appropriations of \$1.35 billion, which would increase the total authorization to \$53.11 billion.

These budgets reflect net changes from the biennial amounts originally authorized by the Legislature in the 2001 2nd Special Session as follows: omnibus operating – a decrease of \$0.29 billion, which is a 0.7 percent decrease; transportation current law – an increase of \$0.77 billion, which is a 20.2 percent increase; and omnibus capital – an increase of \$0.05 billion, which is a 1.3 percent increase.

Separate overviews are included for each of the budgets. The omnibus operating budget overview can be found on page 11, the transportation budgets overview on page 249, and the omnibus capital budget overview on page 350.

2002 Supplemental Budget Overview - Operating Only

The state's fiscal condition deteriorated dramatically between the adoption of the 2001-03 biennial budget in June 2001 and the beginning of the 2002 session in January and then deteriorated even more during the session. The Governor's budget proposal in December addressed a \$1.3 billion decline: \$909 million in reduced revenue and over \$300 million in additional spending demands. In February, the revenue forecast was reduced an additional \$247 million, resulting in a \$1.5 billion gap between revenue and expenditures.

The 2002 Legislature addressed this gap in four ways: the 2001-03 biennial appropriation was reduced by a net of \$332 million; actions were taken to increase ongoing revenue by \$88 million; a portion of the state's share of the national tobacco settlement was sold to generate \$450 million for deposit into the general fund; and \$325 million of the emergency reserve account was transferred into the general fund and used to pay for part of the shortfall and to provide a reserve.

The revised 2001-03 biennial General Fund-State appropriation is \$22.45 billion¹, an increase of 6.7 percent over the 1999-01 appropriation. The revised total funds operating budget is \$43.0 billion, a 12.1 percent increase over the 1999-01 budget.

The Supplemental Budget

Since the passage of the \$22.783 billion 2001-03 general fund biennial budget last June, new spending pressures emerged resulting in an increase of \$322 million in the 2002 supplemental budget. Most of the increase comes from two budget drivers – K-12 education and low-income health care. An additional \$126 million is needed for public schools primarily for increased enrollments and levy equalization costs. Another \$91 million is added for the increased costs of health care in the Department of Social and Health Services (DSHS) Medical Assistance Program primarily for aged, blind, and disabled recipients. Other significant general fund supplemental spending requirements include the Department of Corrections (\$39 million) and the DSHS Economic Services Program (\$16 million).

General fund budget reductions and transfers of \$654 million were adopted that, when added to the \$322 million of

¹ The fiscal year 2002 appropriation is \$11.23 billion, and the fiscal year 2003 appropriation is \$11.22 billion.

2002 Supplemental Budget (ESSB 6387)

increases described above, resulted in an overall reduction in the general fund budget of \$332 million. General fund spending was reduced by \$88 million through a number of efficiency savings and across-the-board reductions taken throughout state government. This amount also includes reductions in travel and equipment. An additional \$59.4 million in savings comes from a reduction of backfill assistance for cities and counties that lost significant revenue due to the passage of Initiative 695 in November 1999. Another \$63 million is saved from a proposal to adopt the State Actuary's most recent pension system valuation assumptions prescribed by the 1995-2000 experience study. Shifting the cost of certain general fund programs to other funds and accounts conserves \$51 million in general fund resources.

Health care benefits for state employees (and allocations for public schools) were reduced by \$33 million. The scheduled July 1, 2002, 2.6 percent cost-of-living adjustment for state and higher education employees was eliminated, saving \$50 million in the state general fund. The fiscal year 2003 vendor cost-of-living increase was reduced to 1.5 percent, saving \$9 million. Public school funding was reduced by \$90 million through a variety of changes, including elimination of state funding for one planning day, proposed changes in the calculation of the "staff mix" factor, and utilization of new federal education funding. Excluding compensation changes, higher education was reduced by \$59 million through a combination of across-the-board reductions (\$55 million of this amount is included in the \$88 million efficiency total above) and other measures.

Adoption of this budget reduced the percentage growth in general fund biennial spending in 2001-03 to 6.7 percent, the lowest percentage growth in the general fund budget since the early 1970s.

Revenue Changes

The budget adopts several measures that are expected to raise general fund revenues by about \$88 million during the remainder of the 2001-03 biennium and \$206 million in the 2003-05 biennium. A total of \$46 million in new revenue is anticipated from the hiring of additional staff in the Department of Revenue to improve tax collection, tax discovery, and overall tax compliance. Another \$24 million in ongoing revenue is expected from Washington's entry into "The Big Game" multi-state lottery consortium as authorized by separate legislation. Additional ongoing revenue of about \$27 million is expected from a proposal to eliminate exemptions in use taxation. Under Initiative 601, a two-thirds vote is required to raise revenue. The Legislature passed Chapter 33, Laws of 2002 (SB 6819), to suspend this requirement for the remainder of the biennium. Offsetting a portion of the revenue increases are a number of measures that reduce General Fund-State revenues by approximately \$10 million.

Securitizing Tobacco Settlement Payments

In separate legislation, the state is directed to "securitize" a portion of the annual revenue coming to the state from the 1998 settlement of the national tobacco litigation. An independent authority is created to which the state would sell a portion of the state's annual tobacco settlement revenues in order to raise \$450 million in net proceeds to the state general fund. The authority will issue revenue bonds, the proceeds of which would be paid back to the state in return for the right to receive a portion of future tobacco settlement payments.

Reserves and Money Transfers

The 2002 supplemental budget makes use of both state reserve accounts and money transfers from dedicated fund balances.

The sum of \$51.6 million is drawn from a variety of money transfers from various dedicated funds, listed on page 15 of this document. The budget also transfers \$325 million from the Emergency Reserve Account to the general fund. SB 6819 suspended the two-thirds vote requirement for a transfer from the Emergency Reserve Account.

The budget leaves a total \$305 million budget reserve, \$303 million less than the budget adopted in 2001. The reserves are comprised of \$252 million in the unrestricted ending balance and \$53 million in the Emergency Reserve Account.

2001-03 Estimated Revenues and Expenditures

General Fund-State

(Dollars in Millions)

Resources	
Beginning Fund Balance	599.0
February 2002 Revenue Forecast	20,961.9
2001 Session Money Transfers	228.0
2002 Session Money Transfers	51.6
Tobacco Securitization Transfer	450.0
Emergency Reserve Account Transfer	325.0
Budget Driven Revenue	43.0
Revenue Legislation	20.4
Big Game Lottery	24.4
Total Resources Available	22,703.3

Appropriations	
Original 2001-03 Appropriation	22,783.2
2002 Supplemental Budget	-298.0
Governor Vetoes	-34.1 ¹
Total Appropriation	22,451.2
Spending Limit	23,260.1
Appropriation Compared to the Limit	-808.9 ²

Balance	
Unrestricted Ending Balance	252.1

Emergency Reserves Fund	
Beginning Balance	462.1
Interest Earnings	10.6
Transfers to Transportation	-70.0
Earthquake / Drought	-25.0
Transfer to the General Fund	-325.0
Ending Balance	52.7
Total Reserves	304.8 ¹

1) The Governor vetoed an additional \$2.9 million enhancement for home care workers wages and placed this amount in allotment reserve. These funds are still included in the appropriation.

2) Note: Preliminary analysis of statutory provisions concerning use of the Emergency Reserve Fund (ERF) suggests that the limit should not be raised for the transfer of ERF money to the general fund.

2002 Supplemental Budget (ESSB 6387)

**2001-03 Washington State Operating Budget
Appropriations Contained Within Other Legislation**

(Dollars in Thousands)

Bill Number and Subject	Session Law	Agency	GF-S	Total
2001 Legislative Session				
HB 2258 - Earthquake and Drought Relief	C 26 L 01 E2	Other Legislation with Appropriations		25,000
ESSB 5237 - Fair Fund	C 16 L 01	Other Legislation with Appropriations	100	<u>25,000</u>
Total			100	25,000
2002 Legislative Session				
ESHB 2304 - Transportation	C 5 L 02	Department of Labor & Industries		950

Note: Operating appropriations contained in Chapter 371, Laws of 2002, Partial Veto (ESSB 6387 - 2001-03 Omnibus Operating Budget), Chapter 359, Laws of 2002, Partial Veto (ESHB 2451 - 2001-03 Transportation Current Law Budget), and Chapter 201, Laws of 2002, Partial Veto (ESSB 6347 - 2001-03 Transportation New Law Budget -- subject to passage of Referendum 51) are displayed in the appropriate sections of this document.

2002 Supplemental Budget (ESSB 6387)

2002 Revenue Legislation Changes

General Fund-State

(Dollars in Thousands)

Legislation	2001-03	2003-05
2SHB 1477 Emergency Communication Systems	0	0
2SHB 1531 Taxation of Lodging	-135	-245
SHB 2031 Pay Phone Service Taxation	0	0
SHB 2060 Low-Income Housing	0	0
2SHB 2338 Drug Offense Sentencing	0	-8,528
SHB 2357 Community Renewal	0	0
HB 2425 Community Economic Revitalization Board (CERB)	0	-100
SHB 2437 Economic Revitalization	0	0
SHB 2456 Linked Deposit Program	0	-236
SHB 2466 Multiple-Unit Dwellings	0	0
SHB 2495 Fire Districts	0	0
HB 2496 Fire Protection Districts/Property Tax	0	0
HB 2553 Cigarette Tax Contracts/Tribes	0	0
SHB 2592 Community Revitalization Financing	0	0
HB 2595 Wireless 911 Service	0	0
HB 2639 Internet Service Providers/Moratorium	0	0
HB 2641 Business and Occupation Tax (Investment Income)	-3,615	-10,473
HB 2732 Subsidized Health Care	0	0
HJR 4220 Fire Protection District Levies	0	0
SB 5082 Defining Rural Counties	-414	-1,070
3SSB 5514 Public Facility Districts	-725	-2,101
SB 5523 Leased Equipment/Tax Overpayment	0	0
2SSB 5965 Local Real Estate Excise Tax (REET)	0	0
ESSB 6060 Hazardous Substance Tax	0	0
SSB 6342 Sales and Use Tax Act	0	0
SB 6539 Telecommunications	0	0
SB 6591 Tobacco Products Tax *	0	0
SSB 6787 Organ Procurement Organizations	-34	-171
SB 6819 Expenditure Limits	0	0
SB 6835 Use Taxation	27,179	58,431
	22,256	35,507
Transportation Revenue Bills		
ESHB 2304 Transportation - Blue Ribbon Commission	-462	-924
ESHB 2969 Transportation - Improvement and Financing	0	0
ESSB 6008 Commute Trip Reduction	-1,500	750
SB 6036 Local Motor Vehicle Excise Tax	0	0
E2SSB 6140 Regional Transportation Investment Districts	0	0
ESSB 6464 City Transportation Authority	0	0
	-1,962	-174
New Lottery Game		
E2SSB 6560 Shared Game Lottery	24,400	63,446
Budget Driven Revenue		
Department of Revenue	46,400	106,120
License Fee for Nursing Homes (Transfer)	-3,367	-6,733
	43,033	99,387
Miscellaneous Revenue Changes	68	180
Total Revenue Changes	87,795	198,346

* The General Fund-State fiscal impact of SB 6591 is an increase of \$2.37 million for fiscal year 2003 and \$5.95 million for the 2003-05 biennium. As the impact does not result in an increase for balance sheet purposes, it is not included in the sum for this table. (The most current forecast already assumes these revenues.)

2002 Session Revenue Legislation

Revenue legislation for the 2002 session was enacted in the context of a significant reduction in General Fund-State revenues. The February 2002 revenue forecast of about \$21 billion was over one billion less than the \$22 billion used in constructing the original 2001-03 biennial operating budget. Most of this General Fund-State revenue reduction was a result of a downturn in the economy, including the effects of the terrorist attacks of September 11, 2001.

During the 2002 session, the Legislature enacted and the Governor signed measures that totaled to a net General Fund-State increase of \$88 million for the 2001-03 biennium. Major revenue issues for 2002 included: the passage of two initiatives to the people (Initiative 747 and Initiative 773); a temporary revision to Initiative 601 voting requirements; revenue increase measures; legislation responding to the Governor's task force on investment income of non-financial firms; transportation revenue legislation; and the federal government's changes to the estate tax.

Initiatives

In November 2001, voters approved Initiative 747 (Chapter 1, Laws of 2002), limiting the growth of property taxes. Regular state and local property tax levies are limited to 1 percent growth per year. For local districts with a population greater than 10,000, and for the state, this rate is limited to inflation if inflation is less than 1 percent. Higher growth rates are allowed for local levies only with voter approval. The limits do not apply to voter-approved special levies or to new construction and are based on the regular levy receipts of taxing districts, not the amount paid by individual property owners. This measure is projected to result in reduced General Fund-State revenues of \$34 million between January 1, 2002, and June 30, 2003, and a reduction in local revenues of \$115 million for all local regular levies for the same period. For the 2003-05 biennium, this reduction is expected to rise to \$118 million for the state levy and \$363 million for all local regular levies.

Voters also approved Initiative 773 (Chapter 2, Laws of 2002), in November 2001 increasing the rates of the state cigarette and tobacco products taxes. Effective January 1, 2002, cigarette tax rates increased from \$0.825 to \$1.425 per pack, the second highest rate nationally as of April 2002. The tobacco products tax rate increased from 74.9 percent of the wholesale price to 129.4 percent, one of the highest rates nationally. Receipts from the taxes are dedicated to the Health Services Account to be used for health programs for low-income people, tobacco control and prevention, and the state Basic Health Plan. Increases to the Health Services Account are projected at \$220 million for 2001-03 and \$270 million for 2003-05. The initiative provided for amounts to be transferred to other funds that lose revenue as a result of the change in law but did not contain such a provision for the state general fund. For the 2001-03 biennium, this legislation results in a \$7 million reduction for the General Fund-State, increasing to a \$9 million reduction for the 2003-05 biennium.

Revenue Increase Measures

Budget driven revenue includes additional staff for the Department of Revenue to conduct audits, tax discovery, collections, and taxpayer education. These strategies are projected to increase General Fund-State revenues by \$46 million for fiscal year 2003 and \$106 million for the 2003-05 biennium. Projected local government revenue increases are \$7 million for fiscal year 2003 and over \$15 million for the 2003-05 biennium. (For more information, see the Governmental Operations Section of this document.)

Under Chapter 349, Laws of 2002 (E2SSB 6560), the State Lottery Commission is authorized to join the shared game multi-state lottery, "The Big Game." After transfers and reductions in existing lottery game revenue, participation in "The Big Game" is projected to increase net General Fund-State revenues by \$24 million in fiscal year 2003 and by \$63 million in the 2003-05 biennium.

While it had no direct revenue impact, Chapter 33, Laws of 2002 (SB 6819), revised Initiative 601 voting requirements through fiscal year 2003 to allow for a simple majority vote for general tax increases and transfers from the emergency reserve fund. This legislation was effective on March 13, 2002.

The application of the use tax was broadened by Chapter 367, Laws of 2002 (SB 6835), to include three areas involving out-of-state activities. For fiscal year 2003, General Fund-State revenues are increased by about \$27 million, and local revenues are increased by about \$8 million. For the 2003-05 biennium, General Fund-State revenues are increased by a projected \$58 million.

Investment Income Tax Deduction for Business & Occupation Tax

The only legislation with a permanent General Fund-State revenue decrease of over \$1 million for the 2001-03 biennium was Chapter 150, Laws of 2002 (HB 2641), responding to the Governor's task force on taxation of investment income for non-financial firms. The task force was convened to address the 2000 State Supreme Court decision in *Simpson Investment Company v. Department of Revenue*. This legislation decreases General Fund-State revenue by \$3.6 million in fiscal year 2003 and by about \$10.5 million in the 2003-05 biennium.

Estate Tax

The federal Economic Growth and Tax Relief Reconciliation Act (EGTRRA) of 2001 phases out the federal estate tax by 2010. Included in EGTRRA was a phase-out by 2005 of the credit for estate taxes imposed by states. Under current statutes, Washington estate tax "picks up" the credit as it existed on January 1, 2001. Although there were various proposals to conform or partially conform to EGTRRA, none were enacted during the 2002 session; so the state will collect 100 percent of the old credit.

Transportation

The 2002 session featured a number of transportation measures containing revenue provisions to raise money for local and statewide projects. Chapter 56, Laws of 2002, Partial Veto (E2SSB 6140), authorizes some local taxing authority and financing sources, subject to voter approval, for regional transportation investment districts limited to King, Pierce, and Snohomish counties. Chapter 202, Laws of 2002 (ESHB 2969 – Referendum 51), raises revenue for statewide improvements, authorizes a gas tax increase, authorizes a sales tax increase on vehicles, and earmarks sales tax on highway construction for transportation projects. Referendum 51 requires approval of the statewide electorate in November 2002. (For more information, see the Transportation New Law Budget Section of this document.)

Other

No other legislation resulted in permanent revenue impacts of over \$1 million General Fund-State for the 2001-03 biennium. Two bills to assist local governments have General Fund-State impacts of over \$1 million in the 2003-05 biennium. Chapter 184, Laws of 2002 (SB 5082), amends the definition of rural county to include counties smaller than 225 square miles for the purposes of the 0.08 percent local sales tax for public facilities. Chapter 363 Laws of 2002, Partial Veto (3SSB 5514), extends the date by which construction of regional special events centers must commence in order to be eligible for the local sales tax. Both of these local sales taxes are credits against the state sales tax.

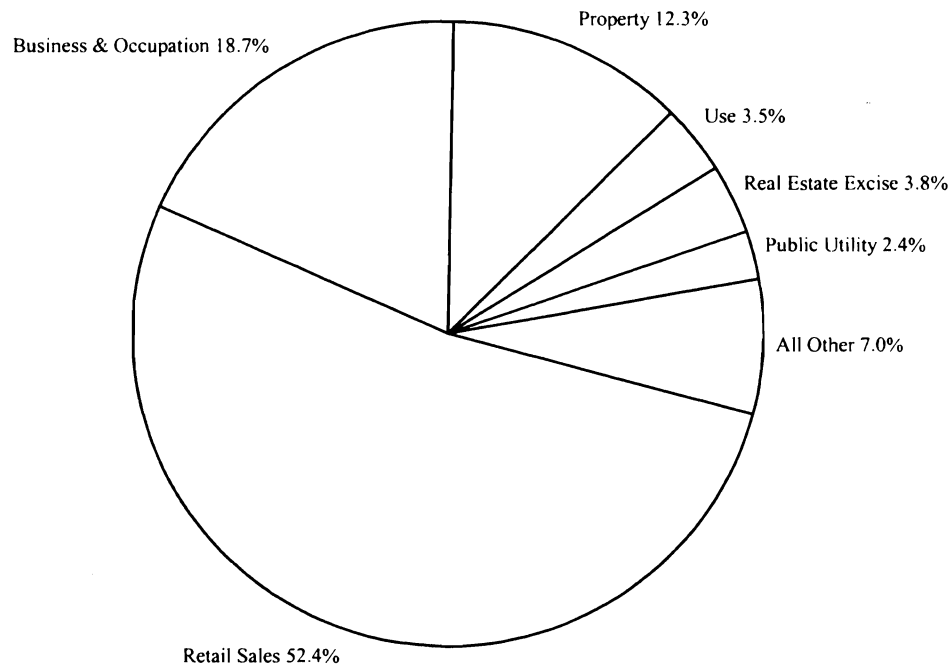
Two other non-transportation bills will result in significant increases in local and special purpose revenues. Chapter 294, Laws of 2002 (SHB 2060), changes fees for documents filed with county auditors and dedicates the revenue to low-income housing. Combined revenue increases for local governments and the Washington Housing Trust Fund exceed \$12 million for fiscal year 2003. Chapter 341, Laws of 2002 (HB 2595), increases taxes on wireless telephone service to allow enhanced 911 (E-911) services to accommodate wireless phone calls. For fiscal year 2003, the legislation raises revenue of \$3 million for statewide coordination and over \$3 million for county E-911.

2002 Supplemental Budget (ESSB 6387)

Washington State Revenue Forecast - February 2002

2001-03 General Fund-State Revenues by Source

(Dollars in Millions)



Sources of Revenue	
Retail Sales	10,986.4
Business & Occupation	3,914.9
Property *	2,581.9
Use	727.8
Real Estate Excise	789.9
Public Utility	499.5
All Other	1,461.5
Total	20,961.9

* 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 February 2002 Revenue Forecast (Cash Basis).

Washington State
General Fund-State Revenues By Source

Dollars in Millions

	1991-93	1993-95	1995-97	1997-99	1999-01	2001-03
Retail Sales	7,163.0	8,020.5	8,541.8	9,609.8	10,903.5	10,986.4
Business & Occupation	2,503.5	3,031.5	3,300.1	3,603.6	3,772.9	3,914.9
Property *	1,661.8	1,960.4	2,211.7	2,452.8	2,651.9	2,581.9
Use	515.1	569.4	626.1	662.0	779.5	727.8
Real Estate Excise	399.0	493.0	532.6	746.3	801.5	789.9
Public Utility	292.9	345.2	388.1	415.8	495.3	499.5
All Other	1,817.0	1,780.9	1,729.5	2,129.2	1,857.5	1,461.5
Total	14,352.3	16,200.9	17,329.9	19,619.5	21,262.1	20,961.9

Percent of Total

Retail Sales	49.9%	49.5%	49.3%	49.0%	51.3%	52.4%
Business & Occupation	17.4%	18.7%	19.0%	18.4%	17.7%	18.7%
Property	11.6%	12.1%	12.8%	12.5%	12.5%	12.3%
Use	3.6%	3.5%	3.6%	3.4%	3.7%	3.5%
Real Estate Excise	2.8%	3.0%	3.1%	3.8%	3.8%	3.8%
Public Utility	2.0%	2.1%	2.2%	2.1%	2.3%	2.4%
All Other	12.7%	11.0%	10.0%	10.9%	8.7%	7.0%
Total	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

Percent Change from Prior Biennium

Retail Sales	12.0%	6.5%	12.5%	13.5%	0.8%
Business & Occupation	21.1%	8.9%	9.2%	4.7%	3.8%
Property	18.0%	12.8%	10.9%	8.1%	-2.6%
Use	10.5%	10.0%	5.7%	17.8%	-6.6%
Real Estate Excise	23.6%	8.0%	40.1%	7.4%	-1.5%
Public Utility	17.9%	12.4%	7.1%	19.1%	0.9%
All Other	-2.0%	-2.9%	23.1%	-12.8%	-21.3%
Total	12.9%	7.0%	13.2%	8.4%	-1.4%

* For 1999-01 and 2001-03, 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 1999-01 and 2001-03 reflect the February 2002 Revenue Forecast (Cash Basis).

Revenue Legislation

The legislation listed below is intended to be a summary of bills passed during the 2002 session affecting state revenues or tax statutes, but may not cover all revenue-related bills. The legislation is listed in bill number order, although transportation-related legislation is grouped together at the end.

Allowing Counties to Impose Taxes for Emergency Communications Systems – No General Fund-State Revenue Impact

Chapter 176, Laws of 2002 (2SHB 1477), authorizes counties to impose an additional 0.1 percent sales and use tax for emergency communication systems and facilities, subject to voter approval. This legislation has no state revenue impact; local impact depends on the number of counties that enact the additional tax.

Modifying the Taxation of Lodging — \$135,000 General Fund-State Revenue Decrease

Chapter 178, Laws of 2002, Partial Veto (2SHB 1531), eliminates the requirement for continuous occupancy of a specific lodging unit by the same person in order to be exempt from the taxes on lodging. (The Governor vetoed a provision intended to allow a municipality located in more than one county to impose the local lodging tax in each county at the maximum rate; however, as written, the provision had no effect on current law.) This legislation decreases General Fund-State revenue by \$135,000 in the 2001-03 biennium and results in a small decrease in local revenues and receipts to the Convention Center Account.

Limiting the Taxation of Pay Phone Services — No General Fund-State Revenue Impact

Chapter 179, Laws of 2002 (SHB 2031), requires cities to tax pay phone services of independent pay phone operators at the 0.2 percent retailing rate rather than the 6.0 percent utility rate. This legislation has no state revenue impact and decreases local revenues by \$167,000 in fiscal year 2003.

Providing Funds for Housing Projects — No General Fund-State Revenue Impact

Chapter 294, Laws of 2002 (SHB 2060), imposes a \$10 surcharge on recordings of real property documents filed with county auditors. Proceeds are directed as follows: 5 percent may be retained by county auditors for administrative expenses, and, of the remainder, 40 percent is deposited into the state Housing Trust Account for low-income housing, and 60 percent may be used by the county and its cities pursuant to an inter-local agreement for specified purposes related to low-income housing programs. This legislation has no General Fund-State revenue impact. Local revenues are increased by \$7.6 million, and \$4.8 million is raised for the Washington Housing Trust Fund in the 2001-03 biennium.

Revising Sentences for Drug Offenses — No General Fund-State Revenue Impact

Chapter 290, Laws of 2002 (2SHB 2338), revises drug offender sentencing. Savings from these sentencing changes are used to fund drug treatment at the state and county level. This legislation requires a transfer of the calculated savings amount from the General Fund-State to the Criminal Justice Treatment Account, reducing revenues by an estimated \$8.5 million in the 2003-05 biennium. (This transfer is intended to be offset by savings in the operating budget as a result of the sentencing changes, but actual savings and calculated savings may differ.)

Addressing Community Renewal — No General Fund-State Revenue Impact

Chapter 218, Laws of 2002 (HB 2357), expands tax increment financing to allow increased local sales and use taxes derived from firms within a redevelopment area to be applied toward retirement of bonds that financed the project. Local improvement districts may be established within a community renewal area and imposition of special assessments on property within these districts is allowed. This legislation has no state revenue impact.

Funding the Community Economic Revitalization Board — No General Fund-State Revenue Impact

Chapter 242, Laws of 2002 (HB 2425), authorizes the Community Economic Revitalization Board (CERB) Account to retain 100 percent of its interest earnings on the repayment of principal and interest on its loans beginning July 1, 2004.

Currently, these interest earnings are deposited into the general fund. The repayment of loans made under the timber-dependent communities program and the rural natural resources impact area program are transferred from the Public Works Trust Fund into the CERB Account. The board is required to provide at least 10 percent of all financial assistance in the form of grants. This legislation has no General Fund-State revenue impact during the 2001-03 biennium and a minimal impact thereafter.

Promoting Economic Revitalization — No General Fund-State Revenue Impact

Chapter 79, Laws of 2002 (HB 2437), allows a city or town with a population of over 100,000 to use the incremental increase in revenue of the basic and optional local sales and use taxes to finance community revitalization projects within a designated downtown or neighborhood commercial district. This legislation has no General Fund-State revenue impact.

Modifying Provisions Relating to the Linked Deposit Program — No General Fund-State Revenue Impact

Chapter 305, Laws of 2002 (SHB 2456), requires designated state agencies to develop analytical tools to measure the performance of the linked deposit program, and the Office of Minority and Women's Business Enterprises is added to the list of state agencies charged with monitoring the performance. The sunset provision on the program is extended from June 30, 2003, to June 30, 2008. This legislation has no state revenue impact during the 2001-03 biennium and a modest impact in fiscal year 2005 due to a reduction in interest earnings for the state general fund.

Revising the Multiple Unit Dwelling Property Tax Exemption — No General Fund-State Revenue Impact

Chapter 146, Laws of 2002 (SHB 2466), reduces the minimum city population cap from 50,000 to 30,000 for the multi-family housing property tax exemption program. The cost of the rehabilitation or construction is counted as new construction when calculating the maximum district property tax amount at the time the property is no longer exempt. It also allows cities to limit the tax exemption to individual dwelling units that meet the city guidelines for program participation, such as low-income housing status. This legislation is expected to have minimal state and local revenue impacts, although the program will create a tax shift beginning in calendar year 2004. These impacts assume that only Puyallup currently has plans to utilize the new legislation and that it will take a number of years for plans to reach fulfillment.

Updating Outdated Fire District Statutes to Increase Efficiency — No General Fund-State Revenue Impact

Chapter 84, Laws of 2002 (SHB 2495), expands the existing authority for a fire district to levy an additional property tax of \$0.50 per thousand dollars of assessed value if it has at least one full-time employee to districts that *contract* with at least one full-time employee. This legislation has no state revenue impact; local impacts depend on the number of districts that choose to take advantage of this provision.

Modifying Fire Protection District Property Tax Provisions — No General Fund-State Revenue Impact

Chapter 180, Laws of 2002 (HB 2496), allows multiple-year levies for fire districts by amending the current one-year fire protection district property tax levy to allow for a levy of up to four years for maintenance and operation support and up to six years for construction or remodeling purposes. The act only takes effect if the accompanying constitutional amendment, House Joint Resolution 4220, is approved at the next general election. This legislation has no state or local revenue impact.

Increasing the Number of Eligible Tribes for Cigarette Tax Contracts — No General Fund-State Revenue Impact

Chapter 87, Laws of 2002 (HB 2553), authorizes the Governor to enter into cigarette tax contracts with the Snoqualmie and the Swinomish tribes, in addition to the 16 tribal entities allowed under Chapter 235, Laws of 2001. The contracts allow the tribes to levy tribal cigarette taxes equivalent to state and local cigarette and sales taxes, although purchases by tribal members may be exempted. This legislation has no direct revenue impact. Enactment of contracts in the future could result in a small increase in state and local revenue, as the incentive to purchase from tribal retailers is removed and some purchasers shift to more convenient, non-tribal retailers.

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Modifying Community Revitalization Financing — No General Fund-State Revenue Impact

Chapter 12, Laws of 2002 (HB 2592), amends a 2001 statute regarding the use of tax increment financing for community revitalization projects. Fire protection districts must agree to participate in order for a local government to proceed with community revitalization financing. Local governments are authorized to issue non-recourse revenue bonds to finance revenue-generating public improvements, or portions of public improvements, that are located within a tax increment area. The Community Revitalization Financing Program's expiration date of July 1, 2010, is eliminated. This legislation has no state revenue impact; local impact depends on the extent to which local governments use this provision.

Providing Funding for Wireless Enhanced 911 (E-911) Taxes — No General Fund-State Revenue Impact

Chapter 341, Laws of 2002 (HB 2595), increases the maximum county 911 tax of 25 cents on radio access (wireless) lines to 50 cents. A state E-911 tax of 20 cents is imposed on wireless lines. Revenues from the state tax can be used for implementation and operation of wireless E-911 statewide, including funding of counties and reimbursement of wireless carriers. This legislation has no General Fund-State revenue impact. Fiscal year 2003 revenues to the state E-911 Account are projected at \$2.8 million, and revenues for counties are projected at \$3.5 million, with growth in subsequent years.

Continuing a Moratorium that Prohibits a City or Town from Imposing a Specific Fee or Tax on an Internet Service Provider — No General Fund-State Revenue Impact

Chapter 181, Laws of 2002 (HB 2639), extends the prohibition on the imposition of new taxes or fees on Internet service providers from July 1, 2002, to July 1, 2004. This legislation has no impact on current state and local revenues.

Implementing the Recommendations of the Investment Income Tax Deduction Task Force for the Business and Occupation (B&O) Tax — \$3.6 Million General Fund-State Revenue Decrease

Chapter 150, Laws of 2002 (HB 2641), revises the B&O deduction for investment income. Amounts received from investments are deductible except for banking businesses, lending businesses, security businesses, loans or the extension of credit, revolving credit arrangements, installment sales, and the acceptance of payment over time for goods or services. Also deductible are amounts derived from interest on loans between a subsidiary entity and a parent entity or between subsidiaries of a common parent entity provided the total investment and loan income is less than 5 percent of the annual gross receipts of the business. This legislation decreases General Fund-State revenue by \$3.6 million in fiscal year 2003 and by \$10.5 million in the 2003-05 biennium.

Excluding Government Subsidized Social Welfare Compensation from Taxation — No General Fund-State Revenue Impact

Chapter 314, Laws of 2002 (HB 2732), restates 2001 enacted legislation that modified the B&O tax deduction to allow nonprofit and public hospitals to deduct amounts received from a governmental entity via managed care organizations. The Governor vetoed a provision in the 2001 legislation that waived tax liability for hospitals that had not paid their tax. HB 2732 waives tax liability since January 1, 1998, and provides refunds of taxes paid since January 1, 1998. This legislation has no General Fund-State revenue impact but results in a one-time reduction in revenue for the Health Services Account of \$7.8 million in fiscal year 2003.

Amending the Constitution to Expand the Number of Years Excess Levies by Fire Protection Districts Can Be Made — No General Fund-State Revenue Impact

HJR 4220 is the accompanying constitutional amendment to HB 2496 (see description above) and takes effect only if approved by the voters at the next general election.

Defining Rural Counties for Purposes of Sales and Use Tax for Public Facilities in Rural Counties — \$414,000 General Fund-State Revenue Decrease

Chapter 184, Laws of 2002 (SB 5082), amends the 0.08 percent local option sales tax that is credited against the state's sales tax for rural counties. Revenue from the local tax is used to finance public facilities such as bridges, roads, and sewer facilities. The definition of "rural county" is expanded to include counties that are smaller than 225 square miles. Island County is the only county that meets this requirement that is not already eligible. This legislation decreases

General Fund-State revenue by \$414,000 for fiscal year 2003 and increases local government revenue by the equivalent amount.

Changing Provisions Relating to Public Facility Districts — \$725,000 General Fund-State Revenue Decrease

Chapter 363, Laws of 2002, Partial Veto (3SSB 5514), extends the date by which construction of regional centers must commence in order to be eligible for the local sales tax. Entities that form public facilities districts (PFDs) before July 31, 2002, and commence construction before January 1, 2004, are allowed to impose a 0.033 percent sales tax credited against the state tax. The existing municipal admissions tax is extended to events at public facilities operated by a PFD and requires that the receipts be dedicated to the facility or its programs. "Special events center" is defined, and a city is allowed to form a PFD with a county. (The Governor vetoed a provision in the bill that would have allowed PFDs a full refund of all sales taxes paid on the construction of regional centers after the center became operationally complete.) This legislation decreases General Fund-State revenue by \$725,000 in fiscal year 2003 and increases local government revenues by an equivalent amount.

Authorizing an Offset for Certain Overpayments of Tax Concerning Leased Equipment — No General Fund-State Revenue Impact

Chapter 57, Laws of 2002 (SB 5523), grants an exception to the four-year limitation of refunds regarding overpayments of sales tax on leased equipment. A taxpayer is allowed to credit the sales tax paid incorrectly on the original sale to offset the amount of sales taxes subsequently owed on the leased property. This legislation is expected to have negligible state or local revenue impact.

Authorizing Local Option Real Estate Excise Taxes for Affordable Housing Purposes — No General Fund-State Revenue Impact

Chapter 343, Laws of 2002 (2SSB 5965), authorizes an additional 0.5 percent real estate excise tax for counties for the development of affordable housing, subject to voter approval. Only a county that imposes the 1.0 percent tax for conservation areas at the maximum rate and imposes it by January 1, 2003, is eligible. (Currently only San Juan County meets this requirement.) This legislation has no state revenue impact; for 12 months of collections, the additional tax could yield over \$800,000 in San Juan County.

Updating References for the Purposes of the Hazardous Substance Tax — No General Fund-State Revenue Impact

Chapter 105, Laws of 2002 (ESSB 6060), updates references to federal acts defining hazardous substances for purposes of the state hazardous substance tax. Reference to taxable hazardous substances under the Federal Comprehensive Environmental Response, Compensation, and Liability Act are updated to reflect taxable substances as of March 1, 2002. Exempt are certain non-compound metals that are no longer included as a hazardous substance. Pesticides required to be registered under the Federal Insecticide, Fungicide, and Rodenticide Act are limited to those required to be registered as of August 3, 1996, the last date the act was amended. This legislation has no state revenue impact.

Adopting the Simplified Sales and Use Tax Administration Act — No General Fund-State Revenue Impact

Chapter 267, Laws of 2002 (SSB 6342), authorizes Washington to be a voting member in negotiating a multi-state Streamlined Sales and Use Tax Agreement. Requirements that must be met before Washington can join a multi-state agreement are specified. Any proposed changes to state law as the result of an agreement must be presented by the Department of Revenue to the Legislature. This legislation has no state revenue impact.

Implementing the Federal Mobile Telecommunications Sourcing Act — No General Fund-State Revenue Impact

Chapter 67, Laws of 2002 (SB 6539), sources state and local excise taxes on mobile telecommunications to the customer's primary place of use, in a manner consistent with federal law. A procedure is created for customer complaints about incorrect tax amounts on mobile telecommunications billings. This legislation has no state or local revenue impact.

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Allowing the Lottery Commission to Participate in a Shared Game Lottery — \$24.4 Million General Fund-State Revenue Increase

Chapter 349, Laws of 2002 (E2SSB 6560), authorizes the Lottery Commission to enter into the shared game lottery known as "The Big Game." Lottery revenues of \$102 million per year are guaranteed to the Student Achievement Account and Education Construction Account. This legislation is projected to increase General Fund-State revenue by \$24.4 million in fiscal year 2003 and by \$63.4 million in the 2003-05 biennium.

Changing the Taxation of Tobacco Products to Provide for the Taxation of Products Purchased for Resale from Persons Immune from State Tax — \$2.4 Million General Fund-State Revenue Impact

Chapter 325, Laws of 2002 (SB 6591), expands the definition of distributor to include persons who sell tobacco products (other than cigarettes) that have not yet been subjected to the tobacco tax. The definition of persons is amended to exclude federal entities and tribes. The effect of the changes is to prevent distributors from avoiding the tobacco products tax by purchasing from entities immune from tax (such as Indian tribal vendors). For fiscal year 2003, this legislation has a positive General Fund-State impact of about \$2.4 million, and a combined increase to other funds of about \$4 million. However, since these projected tax revenues are assumed in the February 2002 forecast, these revenues do not net to a positive increase for the balance sheet as of May 2002.

Exempting Organ Procurement Organizations from Taxation — \$34,200 General Fund-State Revenue Decrease

Chapter 113, Laws of 2002 (SSB 6787), exempts income of nonprofit organ procurement organizations from the B&O tax to the extent that it is exempt from federal income tax. The purchase or use of medical supplies, chemicals, or specialized materials for nonprofit organ procurement organizations is exempt from sales and use tax. The sales and use tax exemption does not apply to construction materials, office equipment, building equipment, administrative supplies, or vehicles. This legislation decreases General Fund-State revenue by \$34,200 in fiscal year 2003.

Making Temporary Amendments to the State's Expenditure Limitations to Address the Revenue Shortfall in the 2001-03 Biennium — No General Fund-State Revenue Impact

Chapter 33, Laws of 2002 (SB 6819), revises Initiative 601 voting requirements so that until June 30, 2003, a simple majority vote of both houses of the Legislature is sufficient to increase general state revenues or make transfers from the Emergency Reserve Fund. (The overall state expenditure limit is unchanged.) This legislation was effective on March 13, 2002, and has no direct state revenue impact.

Revising Use Tax Provisions — \$27.2 Million General Fund-State Revenue Increase

Chapter 367, Laws of 2002 (SB 6835), broadens the application of the state and local use tax to three areas involving out-of-state activities. For the purposes of calculating the use tax, delivery, shipping, freight, or like transportation charges are included in the value of an article. Use tax is imposed on advertising printed out of state for an in-state retailer and mailed directly by the printer to Washington residents primarily to promote the sale of goods or services. Use tax is imposed on out-of-state repair services performed on tangible personal property for a Washington consumer. For fiscal year 2003, this legislation increases General Fund-State revenue by \$27.2 million and local government revenue by \$7.9 million.

Transportation Revenue Bills

Adopting Certain Recommendations of the State Blue Ribbon Commission on Transportation — \$462,000 General Fund-State Revenue Decrease

Chapter 5, Laws of 2002 (ESHB 2304), fully dedicates fees paid by contractors to the Department of Labor and Industries for the prevailing wage program. This terminates the transfer of 30 percent of these revenues from the Public Works Administration Account to the state general fund and decreases General Fund-State revenue by \$462,000 in fiscal year 2003 and \$924,000 in the 2003-05 biennium.

Addressing Transportation Improvement and Financing — No General Fund-State Revenue Impact

Chapter 202, Laws of 2002 (ESHB 2969), is subject to referendum at the next general election (Referendum 51) and contains a number of provisions that would fund transportation improvements: (1) fuel taxes are increased by nine cents per gallon over two years; (2) gross weight fees on large vehicles are increased by 30 percent over two years; (3) sales taxes on new and used vehicles (other than farm vehicles and off-road/non-highway vehicles) are increased by 1 percent; (4) sales taxes on highway construction projects are transferred to transportation accounts beginning in fiscal year 2006; and (5) the amount of the fuel tax transferred to accounts benefiting off-road vehicles, snowmobiles, and boating is raised. If enacted, this legislation has no General Fund-State impact until the 2005-07 biennium when sales taxes on highway construction projects are transferred to transportation accounts; the decrease is projected at \$13 million. For fiscal year 2003, state Multimodal Transportation Account and other transportation account revenue increases are projected at \$119 million, rising to over \$795 million in the 2005-07 biennium.

Providing Commute Trip Reduction (CTR) Incentives — \$1.5 Million General Fund-State Revenue Decrease

Chapter 203, Laws of 2002 (ESSB 6008), reenacts the B&O and public utility tax credits that expired December 31, 2000, for employers providing financial incentives to employees for CTR. Tax credits and grants taken between January 1, 2003, and July 1, 2003, may not exceed a cap of \$2 million; caps in subsequent years increase. This legislation decreases General Fund-State revenue by \$1.5 million in fiscal year 2003; the decrease is a result of a lag in reimbursements from the Multimodal Transportation Account.

Repealing Local Motor Vehicle Taxes — No General Fund-State Revenue Impact

Chapter 6, Laws of 2002, Partial Veto (SB 6036), repeals the authority for a municipality to levy a motor vehicle excise tax of up to 0.725 percent of the value of the vehicle for mass transit purposes and repeals the authority for a municipal car rental tax at a rate of up to 1.944 percent. (Local motor vehicle excise taxes and car rental taxes for high capacity transit purposes levied by the Regional Transit Authority—Sound Transit—are not affected.) This legislation has no state revenue impact and no local impact as the taxes repealed have not been levied.

Authorizing Creation of Regional Transportation Investment Districts — No General Fund-State Revenue Impact

Chapter 56, Laws of 2002, Partial Veto (E2SSB 6140), provides for the creation of regional transportation investment districts (limited to King, Snohomish, and Pierce counties). (The Governor vetoed a null and void clause that made this legislation contingent upon passage of Referendum 51.) Subject to local voter approval, the following revenues may be raised for the district: local sales and use taxes of up to 0.5 percent (except on motor vehicle sales); a local motor vehicle use tax of up to 0.5 percent (other than farm vehicles and off-road/non-highway vehicles); local vehicle license fees of up to \$100 per vehicle; local parking taxes; the remaining capacity of the local motor vehicle excise tax (MVET) of up to 0.3 percent; the remaining capacity of the sales and use tax on car rentals of 0.805 percent; the remaining capacity of the local excise tax on employers of up to \$2.00 per employee per month; and vehicle tolls on transportation facilities. The region is also authorized to submit a joint ballot proposition to the voters with Sound Transit to impose a 0.5 percent sales and use tax and the remaining capacity of Sound Transit's 0.5 percent MVET authority. Local revenue impacts will depend on the taxing options approved by voters.

Authorizing the Creation of a City Transportation Authority — No General Fund-State Revenue Impact

Chapter 248, Laws of 2002, Partial Veto (ESSB 6464), authorizes a city with a population over 300,000 to create a city transportation authority by petition or ordinance. Local legislative authority and voter approval are required for any operating or financing plan. To pay for and to implement the plan, the city public transportation authority may levy a voter-approved property tax and issue revenue and general obligation bonds. Any number of the following taxes are also subject to voter approval: a motor vehicle excise tax not exceeding 2.5 percent; sales and use tax on retail car rentals not exceeding 1.944 percent, if the motor vehicle excise tax is implemented; a vehicle license tax not exceeding \$100 for each car within the city; and a regular property tax levy of \$1.50 or less per thousand dollars of property value, subject to the first round of pro-rationing. This legislation has no state revenue impact; local impact depends on which tax options are adopted.

2002 Supplemental Budget (ESSB 6387)

Washington State Omnibus Operating Budget

2002 Supplemental Budget

TOTAL STATE

(Dollars in Thousands)

	General Fund-State			Total All Funds		
	Orig 01-03	2002 Supp	Rev 01-03	Orig 01-03	2002 Supp	Rev 01-03
Legislative	133,124	-3,306	129,818	139,285	-3,175	136,110
Judicial	71,679	1,615	73,294	141,697	-833	140,864
Governmental Operations	392,304	-8,535	383,769	2,707,559	-58,146	2,649,413
Other Human Services	1,232,822	1,788	1,234,610	3,427,544	111,403	3,538,947
DSHS	6,182,481	-55,894	6,126,587	15,484,051	-46,313	15,437,738
Natural Resources	355,477	-39,840	315,637	1,123,648	-21,184	1,102,464
Transportation	40,722	-556	40,166	104,494	1,196	105,690
Total Education	12,763,534	-123,165	12,640,369	18,190,998	-136,722	18,054,276
Public Schools	9,903,086	-48,754	9,854,332	11,571,857	-68,172	11,503,685
Higher Education	2,800,460	-68,896	2,731,564	6,502,726	-63,119	6,439,607
Other Education	59,988	-5,515	54,473	116,415	-5,431	110,984
Special Appropriations	1,610,995	-104,154	1,506,841	2,011,471	-132,203	1,879,268
Total Budget Bill	22,783,138	-332,047	22,451,091	43,330,747	-285,977	43,044,770
Appropriations in Other Legislation	100	0	100	25,100	0	25,100
Statewide Total	22,783,238	-332,047	22,451,191	43,355,847	-285,977	43,069,870

Note: Includes only appropriations from the Omnibus Operating Budget enacted through the 2002 legislative session.

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Washington State Omnibus Operating Budget

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LEGISLATIVE AND JUDICIAL

(Dollars in Thousands)

	General Fund-State			Total All Funds		
	Orig 01-03	2002 Supp	Rev 01-03	Orig 01-03	2002 Supp	Rev 01-03
House of Representatives	56,810	-1,425	55,385	56,855	-1,425	55,430
Senate	46,862	-1,200	45,662	46,907	-1,200	45,707
Jt Leg Audit & Review Committee	4,374	-305	4,069	4,374	-305	4,069
LEAP Committee	2,791	-44	2,747	2,994	-44	2,950
Office of the State Actuary	0	0	0	1,923	131	2,054
Joint Legislative Systems Comm	13,464	-211	13,253	15,170	-211	14,959
Statute Law Committee	7,947	-121	7,826	10,186	-121	10,065
Redistricting Commission	876	0	876	876	0	876
Total Legislative	133,124	-3,306	129,818	139,285	-3,175	136,110
Supreme Court	10,933	54	10,987	10,933	54	10,987
State Law Library	3,965	-59	3,906	3,965	-59	3,906
Court of Appeals	25,624	-6	25,618	25,624	-6	25,618
Commission on Judicial Conduct	1,924	-29	1,895	1,924	-29	1,895
Office of Administrator for Courts	28,633	1,655	30,288	86,025	-511	85,514
Office of Public Defense	600	0	600	13,226	-282	12,944
Total Judicial	71,679	1,615	73,294	141,697	-833	140,864
Total Legislative/Judicial	204,803	-1,691	203,112	280,982	-4,008	276,974

2002 Supplemental Budget (ESSB 6387)

Washington State Omnibus Operating Budget

2002 Supplemental Budget

GOVERNMENTAL OPERATIONS

(Dollars in Thousands)

	General Fund-State			Total All Funds		
	Orig 01-03	2002 Supp	Rev 01-03	Orig 01-03	2002 Supp	Rev 01-03
Office of the Governor	9,061	-536	8,525	13,188	-536	12,652
Office of the Lieutenant Governor	900	-23	877	900	-23	877
Public Disclosure Commission	3,813	-57	3,756	3,813	-57	3,756
Office of the Secretary of State	19,220	-2,289	16,931	34,561	987	35,548
Governor's Office of Indian Affairs	551	-8	543	551	-8	543
Asian-Pacific-American Affrs	466	-32	434	466	-32	434
Office of the State Treasurer	0	0	0	12,870	0	12,870
Office of the State Auditor	1,802	150	1,952	44,940	-956	43,984
Comm Salaries for Elected Officials	232	-5	227	232	-5	227
Office of the Attorney General	9,617	-736	8,881	164,806	167	164,973
Caseload Forecast Council	1,250	-19	1,231	1,250	-19	1,231
Dept of Financial Institutions	0	0	0	23,776	616	24,392
Dept Community, Trade, Econ Dev	141,957	-10,865	131,092	357,893	-3,327	354,566
Economic & Revenue Forecast Cncl	1,026	-15	1,011	1,026	-15	1,011
Office of Financial Management	24,480	484	24,964	69,226	1,726	70,952
Office of Administrative Hearings	0	0	0	21,988	456	22,444
Department of Personnel	0	0	0	33,693	-807	32,886
State Lottery Commission	0	0	0	763,162	49,158	812,320
Washington State Gambling Comm	0	0	0	29,803	-450	29,353
WA State Comm on Hispanic Affairs	460	-24	436	460	-24	436
African-American Affairs Comm	420	-2	418	420	-2	418
Personnel Appeals Board	0	0	0	1,679	26	1,705
Department of Retirement Systems	0	0	0	52,917	327	53,244
State Investment Board	0	0	0	12,876	585	13,461
Department of Revenue	145,207	5,561	150,768	155,498	5,570	161,068
Board of Tax Appeals	2,231	-31	2,200	2,231	-31	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	1,179	25	1,204	133,029	-3,371	129,658
Department of Information Services	0	0	0	209,488	-2,091	207,397
Office of Insurance Commissioner	0	0	0	29,675	875	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	4,504	-68	4,436
WA State Liquor Control Board	2,967	-45	2,922	153,229	2,397	155,626
Utilities and Transportation Comm	0	0	0	31,235	-406	30,829
Board for Volunteer Firefighters	0	0	0	569	0	569
Military Department	18,144	-269	17,875	257,367	-109,009	148,358
Public Employment Relations Comm	4,318	246	4,564	4,318	246	4,564
Growth Management Hearings Board	3,003	-45	2,958	3,003	-45	2,958
State Convention and Trade Center	0	0	0	67,734	0	67,734
Total Governmental Operations	392,304	-8,535	383,769	2,707,559	-58,146	2,649,413

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2002 Supplemental Budget

HUMAN SERVICES

(Dollars in Thousands)

	General Fund-State			Total All Funds		
	Orig 01-03	2002 Supp	Rev 01-03	Orig 01-03	2002 Supp	Rev 01-03
WA State Health Care Authority	13,309	-6,654	6,655	682,887	39,658	722,545
Human Rights Commission	5,388	-81	5,307	7,032	-81	6,951
Bd of Industrial Insurance Appeals	0	0	0	29,406	213	29,619
Criminal Justice Training Comm	0	0	0	19,047	-291	18,756
Department of Labor and Industries	15,420	-4,326	11,094	455,143	8,558	463,701
Indeterminate Sentence Review Board	1,998	-30	1,968	1,998	-30	1,968
Home Care Quality Authority	0	152	152	0	152	152
Department of Health	132,249	-19,972	112,277	631,161	22,056	653,217
Department of Veterans' Affairs	19,756	-166	19,590	75,977	-4,059	71,918
Department of Corrections	1,039,588	32,971	1,072,559	1,080,427	29,896	1,110,323
Dept of Services for the Blind	3,321	-81	3,240	16,334	1,422	17,756
Sentencing Guidelines Commission	1,793	-25	1,768	1,793	-25	1,768
Department of Employment Security	0	0	0	426,339	13,934	440,273
Total Other Human Services	1,232,822	1,788	1,234,610	3,427,544	111,403	3,538,947

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DEPARTMENT OF SOCIAL & HEALTH SERVICES

(Dollars in Thousands)

	General Fund-State			Total All Funds		
	Orig 01-03	2002 Supp	Rev 01-03	Orig 01-03	2002 Supp	Rev 01-03
Children and Family Services	464,802	-8,656	456,146	844,299	-11,747	832,552
Juvenile Rehabilitation	170,715	-8,457	162,258	241,095	-10,242	230,853
Mental Health	604,510	-20,773	583,737	1,126,665	20,589	1,147,254
Developmental Disabilities	620,544	8,562	629,106	1,187,715	20,136	1,207,851
Long-Term Care	1,056,818	-37,681	1,019,137	2,144,082	-55,320	2,088,762
Economic Services Administration	861,310	-23,352	837,958	2,249,449	-18,106	2,231,343
Alcohol & Substance Abuse	76,985	-4,112	72,873	235,646	-4,768	230,878
Medical Assistance Payments	2,159,789	46,119	2,205,908	7,125,957	25,619	7,151,576
Vocational Rehabilitation	21,089	-569	20,520	105,187	-2,072	103,115
Administration/Support Svcs	59,813	-6,975	52,838	111,185	-10,402	100,783
Payments to Other Agencies	86,106	0	86,106	112,771	0	112,771
Total DSHS	6,182,481	-55,894	6,126,587	15,484,051	-46,313	15,437,738
Total Human Services	7,415,303	-54,106	7,361,197	18,911,595	65,090	18,976,685

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NATURAL RESOURCES

(Dollars in Thousands)

	General Fund-State			Total All Funds		
	Orig 01-03	2002 Supp	Rev 01-03	Orig 01-03	2002 Supp	Rev 01-03
Columbia River Gorge Commission	789	-12	777	1,538	-12	1,526
Department of Ecology	91,114	-17,427	73,687	326,336	-6,065	320,271
WA Pollution Liab Insurance Program	0	0	0	2,150	0	2,150
State Parks and Recreation Comm	65,164	-2,626	62,538	100,639	-1,354	99,285
Interagency Comm for Outdoor Rec	788	-465	323	14,235	35	14,270
Environmental Hearings Office	1,693	-25	1,668	1,693	-25	1,668
State Conservation Commission	4,403	-131	4,272	8,142	-372	7,770
Dept of Fish and Wildlife	102,362	-11,653	90,709	296,637	-9,051	287,586
Department of Natural Resources	72,975	-6,561	66,414	283,216	-6,450	276,766
Department of Agriculture	16,189	-940	15,249	89,062	2,110	91,172
Total Natural Resources	355,477	-39,840	315,637	1,123,648	-21,184	1,102,464

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Washington State Omnibus Operating Budget

2002 Supplemental Budget

TRANSPORTATION

(Dollars in Thousands)

	General Fund-State			Total All Funds		
	<u>Orig 01-03</u>	<u>2002 Supp</u>	<u>Rev 01-03</u>	<u>Orig 01-03</u>	<u>2002 Supp</u>	<u>Rev 01-03</u>
Washington State Patrol	29,956	-456	29,500	69,929	1,468	71,397
Department of Licensing	10,766	-100	10,666	34,565	-272	34,293
Total Transportation	40,722	-556	40,166	104,494	1,196	105,690

2002 Supplemental Budget (ESSB 6387)

Washington State Omnibus Operating Budget

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EDUCATION

(Dollars in Thousands)

	General Fund-State			Total All Funds		
	Orig 01-03	2002 Supp	Rev 01-03	Orig 01-03	2002 Supp	Rev 01-03
OSPI & Statewide Programs	61,304	-9,824	51,480	299,329	-107,153	192,176
General Apportionment	7,512,176	-14,155	7,498,021	7,512,176	-14,155	7,498,021
Pupil Transportation	387,491	-1,796	385,695	387,491	-1,796	385,695
School Food Services	6,200	0	6,200	296,387	0	296,387
Special Education	839,908	-10,982	828,926	1,096,000	-10,667	1,085,333
Traffic Safety Education	6,183	-1,906	4,277	6,183	-1,906	4,277
Educational Service Districts	9,536	-208	9,328	9,536	-208	9,328
Levy Equalization	284,644	11,219	295,863	284,644	11,219	295,863
Elementary/Secondary School Improv	0	0	0	288,166	-86,429	201,737
Institutional Education	38,248	-517	37,731	46,796	-517	46,279
Ed of Highly Capable Students	12,840	-141	12,699	12,840	-141	12,699
Student Achievement Program	0	0	0	393,300	-2,151	391,149
Education Reform	72,245	-5,215	67,030	75,478	52,623	128,101
Transitional Bilingual Instruction	88,215	-714	87,501	88,215	19,566	107,781
Learning Assistance Program (LAP)	139,410	-3,454	135,956	139,410	127,177	266,587
Block Grants	37,031	-13,827	23,204	37,031	-13,827	23,204
State Flexible Education Funds	0	20,612	20,612	0	20,612	20,612
Better Schools Program	8,996	0	8,996	8,996	0	8,996
Compensation Adjustments	398,659	-17,846	380,813	398,659	-17,655	381,004
Common School Construction	0	0	0	191,220	-42,764	148,456
Total Public Schools	9,903,086	-48,754	9,854,332	11,571,857	-68,172	11,503,685

2002 Supplemental Budget (ESSB 6387)

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PUBLIC SCHOOLS

(Dollars in Thousands)

	General Fund-State			Total All Funds		
	Orig 01-03	2002 Supp	Rev 01-03	Orig 01-03	2002 Supp	Rev 01-03
Higher Education Coordinating Board	264,603	-445	264,158	279,692	251	279,943
University of Washington	707,088	-27,414	679,674	2,952,973	-27,433	2,925,540
Washington State University	411,355	-16,186	395,169	833,510	-16,186	817,324
Eastern Washington University	92,914	-3,673	89,241	166,402	-3,673	162,729
Central Washington University	89,140	-3,568	85,572	178,717	-3,568	175,149
The Evergreen State College	51,594	-2,081	49,513	90,905	-2,081	88,824
Spokane Intercoll Rsch & Tech Inst	3,000	-104	2,896	4,327	-104	4,223
Western Washington University	122,636	-4,936	117,700	240,406	-4,936	235,470
Community/Technical College System	1,058,130	-10,489	1,047,641	1,755,794	-5,389	1,750,405
Total Higher Education	2,800,460	-68,896	2,731,564	6,502,726	-63,119	6,439,607
State School for the Blind	9,111	63	9,174	10,284	144	10,428
State School for the Deaf	14,834	312	15,146	15,066	312	15,378
Work Force Trng & Educ Coord Board	3,482	-87	3,395	48,968	-87	48,881
State Library	17,577	-5,577	12,000	24,553	-5,577	18,976
Washington State Arts Commission	5,747	-86	5,661	6,747	-83	6,664
Washington State Historical Society	6,028	-94	5,934	7,588	-94	7,494
East Wash State Historical Society	3,209	-46	3,163	3,209	-46	3,163
Total Other Education	59,988	-5,515	54,473	116,415	-5,431	110,984
Total Education	12,763,534	-123,165	12,640,369	18,190,998	-136,722	18,054,276

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2002 Supplemental Budget

SPECIAL APPROPRIATIONS

(Dollars in Thousands)

	General Fund-State			Total All Funds		
	Orig 01-03	2002 Supp	Rev 01-03	Orig 01-03	2002 Supp	Rev 01-03
Bond Retirement and Interest	1,248,770	2,340	1,251,110	1,445,279	-12,699	1,432,580
Special Approps to the Governor	179,406	-72,037	107,369	244,170	-39,397	204,773
Sundry Claims	0	274	274	0	279	279
State Employee Compensation Adjust	138,099	-34,156	103,943	277,302	-79,811	197,491
Contributions to Retirement Systems	44,720	-575	44,145	44,720	-575	44,145
Total Budget Bill	1,610,995	-104,154	1,506,841	2,011,471	-132,203	1,879,268
Appropriations in Other Legislation	100	0	100	25,100	0	25,100
Total Special Appropriations	1,611,095	-104,154	1,506,941	2,036,571	-132,203	1,904,368

2002 Supplemental Budget (ESSB 6387)

LEGISLATIVE

Efficiencies and Savings

Administrative reductions reflecting efficiencies and savings were made in appropriations to all legislative agencies. Agencies are expected to achieve these savings in a manner consistent with the agency's mission, goals, and objectives while, to the greatest extent possible, maintaining client services. Examples of actions that may be taken by state agencies include hiring freezes, employee furloughs, and reductions in employee travel and training, equipment purchases, and personal service contracts.

JUDICIAL

Supreme Court

A total of \$219,000 is provided for salary increases awarded to justices of the Supreme Court. The Citizens' Commission on Salaries for Elected Officials awarded increases of 2.3 percent per year on September 1, 2001, and September 1, 2002. Additionally, besides the percentage salary increases, the Commission approved a \$5,000 increase for each member of the judiciary on September 1, 2001. Pursuant to Amendment 78 of the State Constitution, once approved by the Commission, the salary increases go into effect unless repealed by the voters.

Court of Appeals

A total of \$380,000 is provided for salary increases awarded to judges of the Court of Appeals. The Citizens' Commission on Salaries for Elected Officials awarded increases of 2.3 percent per year on September 1, 2001, and September 1, 2002. Additionally, besides the percentage salary increases, the Commission approved a \$5,000 increase for each member of the judiciary on September 1, 2001. Pursuant to Amendment 78 of the State Constitution, once approved by the Commission, the salary increases go into effect unless repealed by the voters.

Office of the Administrator for the Courts

A total of \$1.7 million is provided for salary increases awarded to judges of the Superior Court. The Citizens' Commission on Salaries for Elected Officials awarded increases of 2.3 percent per year on September 1, 2001, and September 1, 2002. Additionally, besides the percentage salary increases, the Commission approved a \$5,000 increase for each member of the judiciary on September 1, 2001. Pursuant to Amendment 78 of the State Constitution, once approved by the Commission, the salary increases go into effect unless repealed by the voters.

In the original 2001-03 biennial budget, \$1.6 million from the Public Safety and Education Account (PSEA) was provided in fiscal year 2003 to increase juror compensation from \$10 per day up to a maximum of \$25 per day, beginning on the second day of juror service. Due to a revenue shortfall in PSEA, the budget eliminates funding for the increase.

Office of Public Defense

The final budget passed by the Legislature included \$500,000 to continue a dependency and termination case pilot program in Benton, Franklin, and Pierce counties through April 2003. The Governor vetoed the funding that was provided to continue the dependency and termination case pilot program in fiscal year 2003; therefore, \$500,000 from General Fund-State lapses.

GOVERNMENTAL OPERATIONS

Performance Auditing

The operating budget provides \$150,000 for the State Auditor to contract for a performance audit of state claims benefits administration and \$500,000 for the Office of Financial Management to conduct assessment and performance scoring of state agencies and to conduct performance audits of the state's capital construction and contracting practices.

Litigation

The operating budget provides: \$212,000 for the state's defense in the blanket primary litigation; \$885,000 for the state's defense in litigation regarding road culverts and salmon passage; \$786,000 for an increased workload associated with an increase in unemployment insurance appeals; and \$642,000 for an increase in workers' compensation litigation resulting from the Washington Supreme Court's ruling that the value of employer-provided health care benefits must be included in the calculation of workers' compensation benefits.

Department of Community, Trade and Economic Development

Reductions

The operating budget makes several reductions, including reductions of \$504,000 for the Office of Trade and Economic Development and \$1,641,000 for the Office of Community Development. In implementing these efficiencies and savings reductions, the offices are to maintain, to the greatest extent possible, direct payments to service providers, grants to other entities, and other pass-through funds.

Buildable Lands

The budget eliminates \$1.25 million for buildable land grants to local governments in fiscal year 2003. These grants help local governments track data, report, and take actions regarding land supply, urban densities, and actual development as required under a 1997 amendment to the Growth Management Act. The Legislature also enacted House Bill 2846, which suspended buildable land requirements in any biennium when the Legislature did not appropriate at least \$2.5 million for the grants. The Governor vetoed HB 2846.

Civil Indigent Legal Services

Due to increasing public assistance caseloads and child care subsidy costs, the Governor notified the Department of Community, Trade, and Economic Development that \$2.4 million in funding from the federal Temporary Assistance to Needy Families (TANF) block grant would no longer be available to support civil indigent legal representation. The budget provides \$1.5 million in funding from the Violence Reduction and Drug Enforcement Account to replace a portion of the reduced federal funding. Civil indigent legal sources are funded from three sources: General Fund-State, Public Safety and Education Account, and TANF. Taking into account all funding sources, a total of \$10.8 million was budgeted for civil indigent legal services in the 2001-03 biennium, and the revised amount under the supplemental budget is \$9.8 million.

Low-Income Housing

Chapter 294, Laws of 2002 (SHB 2060), imposes a \$10 surcharge on real property recording fees. A portion of the surcharge revenues is deposited into the Washington Housing Trust Fund. The operating budget provides \$2.8 million from the Washington Housing Trust Fund for operation and maintenance costs associated with housing programs for very low-income persons. The operating budget also uses \$2 million from the Washington Housing Trust Fund to replace General Fund-State funds for overnight youth and emergency shelter housing.

Department of Revenue

Funding is provided to the Department of Revenue for additional staff and support for increased audits, tax discovery, delinquent account collections, and targeted taxpayer education. These strategies are projected to raise General Fund-State revenues of \$46.4 million for fiscal year 2003. (For more information, see the Revenue Section of this document.)

Military Department

A total of \$2.8 million from the Enhanced 911 Account is provided for the implementation of Chapter 341, Laws of 2002 (HB 2595), which imposes an additional 20 cents per month state tax on wireless subscribers. The revenue from this tax will be utilized for costs associated with creating the capability to locate the number and location of callers dialing 911 from a wireless phone.

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An amount of \$907,000 from the Enhanced 911 Account is provided for one-time costs associated with upgrading the ability of the enhanced 911 network to transfer calls from one Public Safety Answering Point (PSAP) to another PSAP within the state.

DEPARTMENT OF SOCIAL AND HEALTH SERVICES

Children and Family Services

The supplemental budget eliminates second year increases funded in the biennial budget for basic foster care rates and increased foster care placements through private agencies. This saves \$2.5 million (\$1.6 million state general fund) and leaves the basic foster care rate at an average of \$420 per month and the average monthly foster care caseload contracted through private agencies at about 1,500.

The budget reduces Family Reconciliation Services by about one third, which saves \$1.7 million state general fund. With the remaining funds, the department will prioritize families and services to avoid placement of children into foster care.

The budget reduces funding for the Therapeutic Child Development Program by 25 percent, saving \$2 million state general fund. This reduction is a result of fewer providers in the program due to more stringent contract requirements imposed in 2001.

The budget saves \$2.7 million (\$1.9 million state general fund) in program efficiencies. After-hours programs will be centralized and expenditures for travel, equipment, and training will be reduced.

The budget reduces the number of home support specialists by one third or 22 FTE staff. This saves \$625,000 state general fund.

Juvenile Rehabilitation Administration

A total of \$778,000 in additional funding is provided for increased mental health services in the Juvenile Rehabilitation Administration's institutions and community facilities. The Juvenile Rehabilitation Administration will combine this funding with the \$1.1 million provided in the original 2001-03 biennial budget to: increase inpatient and outpatient treatment capacity; provide mental health protocol training to residential staff; and increase mental health professional staff coverage during evening and night-time hours.

Funding in the amount of \$217,000 is provided for new research-based interventions to additional youth as they transition out of institutional settings. Combined with funding provided in the restructuring of parole services, a total of \$945,000 is provided for research-based interventions. The Juvenile Rehabilitation Administration will utilize this funding for juvenile offenders identified as most in need for this type of rehabilitative programming.

A total of \$5.5 million in state and federal funding is reduced due to caseload-related changes in the Juvenile Rehabilitation Administration. Based on the February 2002 forecast, the Juvenile Rehabilitation Administration's residential population is expected to be 97 offenders lower in fiscal year 2002 and 152 offenders lower in fiscal year 2003 than the November 2000 forecasted levels. This results in savings from a reduced need for institutional and community residential beds. Additionally, funding levels are also adjusted for parole and other community services programs to reflect changes in projected workload.

Savings of \$1.5 million are achieved through the closure of Mission Creek Youth Camp, which will be closed by July 2002 and will be mothballed for future use. This closure will reduce the Juvenile Rehabilitation Administration's bed capacity by 60 beds. The closure will result in the relocation of juvenile offenders to other institutions and the relocation of the juvenile offender basic training camp staging area to an existing institution.

The Juvenile Rehabilitation Administration will achieve savings by changing its release policies so that lower-risk offenders serve 115 percent of their minimum sentence as opposed to 145 percent under current practice. In addition to this change, the Juvenile Rehabilitation Administration will work with local juvenile courts to develop alternative residential placements for approximately 80 to 90 of their lowest-risk youth. These changes are expected to result in a savings of \$1.4 million in state and federal funds.

Savings of \$1.7 million in state and federal funds are achieved by modifying current parole services to juvenile offenders after release from Juvenile Rehabilitation Administration facilities. Specifically, the Juvenile Rehabilitation Administration may take the following steps to improve the effectiveness and cost efficiency of parole services: contract with counties for a greater proportion of parole services; reduce administrative costs related to parole services; reduce the portion of the parole caseload receiving intensive supervision to the statutory required level of 25 percent; provide new research-based interventions to additional youth; increase caseloads of parole counselors; and/or reduce the number of lower-risk youth receiving parole services.

Mental Health

To keep pace with growth in the number of persons enrolled in Medicaid, total funding for community mental health services provided through the Regional Support Networks (RSNs) is increased by \$17 million (2.5 percent) over the level originally budgeted for the biennium. This is in addition to the \$48.5 million (7.8 percent) increase in such funding included in the original 2001-03 appropriation. The cost of this increase is partially offset by:

- Terminating a pilot project that purchases atypical anti-psychotic medications for persons not eligible for them through state medical assistance programs, for a savings of \$2.4 million;
- Reducing administrative expenditures, for a savings of \$0.6 million total funds; and
- Eliminating a number of research and training activities, for a savings of \$0.7 million total funds.

The budget provides a total of \$1.7 million for new community residential and support services for 58 persons who would otherwise be served in the state psychiatric hospitals. This will permit closure of a geriatric ward at Eastern State Hospital by October 2002, for a savings of \$2 million; and closure of 30 "PALS" beds at Western State Hospital by January 2003, for a savings of \$0.7 million. When combined with the four ward closures authorized in the original biennial budget, a total of 178 state hospital beds are to be closed by the end of the 2001-03 biennium, which is about 13 percent of the hospitals' total capacity.

The budget requires RSNs to use \$21.3 million of the approximately \$53 million which they hold in accumulated reserves to provide community mental health services. These services would otherwise need to be paid for with state general funds. RSNs will retain actuarially sufficient risk reserves and will continue to receive advances from the state treasury to cover anticipated cash-flow needs.

Special Commitment Center

Chapter 68, Laws of 2002 (ESSB 6594), includes provisions designed to encourage local jurisdictions to voluntarily work with DSHS to site additional Secure Community Transition Facilities (SCTFs). These facilities are for individuals, civilly committed under the state's sexually violent predator statute, that have progressed enough in their treatment plans to be suitable for this placement. The budget assumes that at least two jurisdictions will work with DSHS. Therefore, \$600,000 is provided for planning, incentive, bonus, and mitigation grants for these communities.

The original 2001-03 budget provided approximately \$2 million for mitigation funding for costs incurred by local governments due to the activities involving residents of the SCTF on McNeil Island. Approximately \$1.4 million of the mitigation funding is eliminated. The remaining \$600,000 is assumed sufficient to cover any increased local government costs associated with the SCTF on McNeil Island. Pursuant to Chapter 12, Laws of 2001, 2nd Special Session (3ESSB 6151), the department will continue to work towards an agreement with impacted jurisdictions. Additionally, the Special Commitment Center has identified two staff positions in fiscal year 2003 at the SCTF that can be eliminated without

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impacting operations. The combination of these changes will result in savings of \$1.5 million during the 2001-03 biennium.

Developmental Disabilities

Total funding for persons with developmental disabilities receiving services in their home through Medicaid Personal Care is increased by \$17.7 million (8.5 percent) over the level originally budgeted for the biennium. This is in addition to the \$16.0 million (8.3 percent) increase in such funding provided in the original 2001-03 appropriation.

The budget also provides \$14 million (\$10.3 million state general fund) for fiscal year 2003 to expand access to community services and improve fiscal and program management in the Developmental Disabilities Program. Funding is provided for new residential services, family support, high school transition, caseworkers, and waiver management staff. The funding is intended to settle the *ARC v. Quasim* lawsuit regarding services to developmentally disabled clients.

The budget reduces funding based on the department's decision to not hire the new case managers provided for in the biennial budget. The decision saved \$5.8 million (\$3.3 million state general fund). Funding provided to address the ARC lawsuit includes money to hire new case managers in fiscal year 2003.

Based on the continued decline in the number of residents in the state Residential Habilitation Centers (RHCs), the budget reduces administrative and support staff at the RHCs. This saves \$2.9 million (\$1.4 million state general fund).

The budget also reduces funding for professional and personal service contracts, for a savings of \$0.9 million state general fund.

Long-Term Care Services

A total of \$2.09 billion is appropriated for the long-term care of an average of 45,000 elderly and disabled adults per month. This is \$186 million (9.8 percent) more than expended upon such services last biennium, but \$55 million less than originally budgeted for the 2001-03 biennium.

The number of persons receiving long-term care is now expected to grow by about 2.5 percent per year this biennium, rather than by the 3.8 percent per year originally budgeted. Other major adjustments include:

- A 115 percent increase in nursing home licensing fees, so that the fees will cover the state's full cost of nursing home inspections and quality assurance. This results in \$2.7 million of reduced state general fund expenditures.
- Eliminating assisted living facility capital payment rates for facilities with low levels of occupancy by state-funded residents, for a state general fund savings of \$1.4 million. Facilities with high levels of occupancy by state-funded residents will continue to receive capital payments.
- Not proceeding with implementation of a new program that would have provided Medicaid-funded in-home care to 200 persons whose incomes are too high to qualify for such services under current rules. This avoids \$1.2 million of new state general fund expenditures.
- Avoiding \$1.3 million of projected state general fund increases through tighter management controls on ancillary support services for persons receiving in-home care and on the manner in which residential facilities are reimbursed during temporary resident absences.

A total of \$5.9 million was appropriated to increase homecare worker wages by 25 cents, to an average of \$7.93 per hour, effective October 1, 2002. The Governor vetoed this increase, and directed the department to place the appropriation in reserve.

Economic Services

The budget reprograms a portion of the State Supplement Payments (SSP) provided under the federal Supplemental Security Income (SSI) Program, saving \$24 million state general fund in the Economic Services Administration budget.

SSP will be provided through the Developmental Disabilities Program to meet the needs of persons striving to live in the community, achieve vocational goals, and continue to live with and be supported by their families. The remaining portion of the SSP funding will be used for payments to current recipients who have been on SSI since 1973 and persons with an ineligible spouse. This change will not affect the federal benefits provided to SSI recipients.

The budget reduces funding for the General Assistance-Unemployable (GA-U) Program by \$5.4 million state general fund. The savings are based on changes the department proposed to improve the administration of the program. This reduction partially offsets the \$16 million increase in the maintenance level adjustment for GA-U caseload growth.

Alcohol and Substance Abuse

The budget saves \$2.6 million state general fund by delaying and reducing drug and alcohol treatment increases funded in the biennial budget. The start up for the involuntary treatment facility in Eastern Washington was delayed until March 2002, saving \$800,000. The \$2.8 million increase in the biennial budget for treatment of persons gravely disabled is delayed and reduced to \$1 million, thus saving \$1.8 million.

The Treatment Accountability for Safe Communities (TASC) Program is reduced by 30 percent, saving \$1 million state general fund.

New funding is provided for treatment of compulsive gambling. Chapter 349, Laws of 2002 authorized the state to participate in a shared lottery game and dedicated \$500,000 of the new revenue to the treatment of compulsive gambling.

Medical Assistance

The supplemental budget increases state funding for Medicaid and other Department of Social and Health Services medical programs by \$100 million (3.8 percent). This is in addition to the \$515 million (25 percent) by which state spending on such programs was already increased over last biennium's level in the original 2001-03 appropriation.

The increased state spending includes: \$8.5 million to settle a lawsuit by hospitals whose certified psychiatric units were paid less than required by DSHS regulations; and \$4.2 million to increase payment rates for physician services by an average of 5 percent and for ambulance services by an average of 25 percent, beginning in the last six months of the biennium. Of the remaining increase, about one-third is due to increased numbers of persons enrolling for services under the existing eligibility standards and about two-thirds is due to higher costs per person covered, particularly in the areas of hospital care and drug costs for the elderly and disabled, and managed care payments for low-income families.

The increases in state spending would have been larger, but for several substantial reductions in medical assistance eligibility and payment rates:

- Beginning in October 2002, immigrants who have legally resided in the United States for less than five years and children whose families cannot document that they are residing here legally will only be eligible for Medical Assistance coverage for emergency conditions. This is expected to reduce state Medical Assistance expenditures by approximately \$23 million during the last nine months of the biennium. These immigrants will instead be encouraged and assisted to enroll in the Basic Health Plan for routine medical coverage.
- A number of administrative changes are expected to reduce enrollment in the GA-U Program by one-third by the end of the biennium, for a savings of \$5.6 million in state Medical Assistance.

Payments to pharmacies for prescription drugs are to be reduced by about 3.5 percent for most drugs and by about 56 percent for the relatively small number of drugs for which there are at least five generic equivalents available. Such rates are comparable to those paid by other major insurers and will result in state fund savings of \$12.9 million. DSHS may continue to pay higher rates for drug ingredients to the extent those are offset by alternative cost-control mechanisms in the pharmacy program.

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OTHER HUMAN SERVICES

Health Care Authority

With \$34 million of the new revenue generated by Initiative 773, Basic Health Plan enrollment will expand from 125,000 in July 2002 to 172,000 by the end of the biennium. During July through October 2002, opportunities for subsidized coverage will be offered on a phased-in basis for 27,000 non-citizen children and adults who will no longer be eligible for state medical assistance programs in the Department of Social and Health Services (DSHS). Beginning in January 2003, subsidized coverage will be offered on a phased-in basis for an additional 20,000 enrollees.

State grant support for nonprofit community clinics is increased by \$3 million. These funds will be used for dental care and medical interpreter services, particularly for the 27,000 non-citizen children and adults who will no longer be eligible for coverage through DSHS Medical Assistance programs.

Department of Health

As required by Initiative 773, funding for the state's comprehensive effort to reduce tobacco use is increased by \$8.7 million, to a total of \$43.2 million for the biennium, of which \$26.2 million will be expended in the second year.

State expenditures to make federally-recommended childhood vaccines universally available in the state, at no cost to the family, are projected to be \$5.5 million less than originally budgeted for the biennium. This is because the purchase of several vaccines has been delayed by a nationwide supply shortage, and because federal funds are covering a larger percentage of program costs than originally anticipated.

Increased federal funding is also being used to avoid approximately \$2.1 million of state expenditures on a number of different programs, including AIDS drug and medical services, education and case management services through the AIDS Networks, and administration of the childhood vaccines and Women, Infants, and Children (WIC) nutrition programs.

Approximately \$0.5 million of increased expenditures on AIDS drugs and medical assistance is to be avoided by requiring participants to shoulder a larger share of costs, based upon income.

The agency is to reduce administrative costs by \$1 million department-wide, with \$0.6 million of the reduction in fee-supported health professional licensing programs.

Department of Corrections

A total of \$36 million from the state general fund and \$500,000 from the Cost of Supervision Fund is provided for the increased operating costs associated with the projected population changes based on the current forecasts prepared by the Caseload Forecast Council. The Department of Corrections' residential population is expected to be 335 offenders higher in fiscal year 2002 and 413 offenders higher in fiscal year 2003 than the November 2000 forecasted levels. Funding levels are also adjusted for significant increased workload in the community supervision program. Additionally, funding is provided for increased health care inflation.

Savings of \$4.3 million are achieved through the initiation of a variety of actions to reduce operating costs and achieve administrative savings. These steps include: identifying efficiencies in business, human resources, and information technology support activities; reducing administrative costs associated with offender programs; mitigating the need for outside training resources by using department staff to perform these functions; standardizing meal plans to lower overall food costs; and reducing administrative costs at the regional level.

The Department of Corrections will achieve savings by removing community corrections officer positions at contracted work release facilities and only performing pre-sentence investigations for sex offenders and mentally-ill offenders. The budget assumes that \$3.5 million in savings will be achieved by these changes.

Savings of \$100,000 are achieved through the implementation of Chapter 290, Laws of 2002 (2SHB 2338), which reduces sentences for certain narcotics drug dealers and, with the exception of methamphetamine-related offenses, eliminates the triple scoring of prior drug offenses in determining an offenders presumptive sentence. The legislation also establishes a new drug grid for the sentencing of most felony drug crimes committed on or after July 1, 2004. Beginning in the 2003-05 biennium, 25 percent of the state savings resulting from the sentencing changes in this act will be dedicated towards providing drug treatment to offenders in the prison system and 75 percent of the state savings will be distributed to local governments for drug treatment and related services for individuals involved in the criminal justice system.

The Governor vetoed funding for the implementation of Chapter 324, Laws of 2002 (ESSB 6490), and therefore funding in the amount of \$53,000 lapses.

NATURAL RESOURCES

The 2002 supplemental budget for the natural resources agencies reduces funding from the 2001-03 biennium budget by \$39.8 million from the general fund and \$21.2 million total funds. The general fund reductions include \$21.5 million in shifts of ongoing activities to other accounts, primarily the Water Quality Account, State Toxics Control Account, and the Wildlife Account. In addition, the budget includes general fund reductions totaling \$4.5 million for the Departments of Ecology and Fish and Wildlife, with the assumption that these activities would be considered for funding by the Salmon Recovery Funding Board. The budget also makes reductions in dedicated accounts, primarily the Department of Natural Resources trust management funds, totaling \$10.7 million to reflect decreased revenues to these accounts.

Department of Ecology

The operating budget provides \$700,000 each from the general fund and the Water Quality Account to the Department of Ecology for a dedicated rescue tug stationed at Neah Bay for at least 200 days during fiscal year 2003.

The budget provides \$176,000 from the general fund to the Office of the Attorney General and the Department of Ecology for a series of studies to continue the progress on the water strategy. In addition, the budget provides \$100,000 from the general fund to the department to continue facilitation of the strategy.

The budget shifts watershed planning grant funding through the Department of Ecology from the general fund to the Water Quality Account. Within the appropriation, Ecology will provide technical assistance, local planning units will address water quality, quantity, and habitat issues and a grant will be made for facilitation of the Puget Sound regional initiative. The Water Quality Account will assume \$8 million of the \$11.9 million program – resulting in a \$2.9 million reduction in grants and staffing. The budget assumes that the department will apply to the Salmon Recovery Funding Board to fund in-stream flow components of watershed plans.

The budget assumes that the department will take a variety of actions to reduce operating costs and achieve administrative savings – resulting in \$5 million in general fund savings. These steps include identifying efficiencies in business, human resources, and information technology support activities. Reductions include: limiting the Neah Bay rescue tug to 200 days in fiscal year 2002; reducing the auto emission program to reflect a small population of vehicles subject to testing; and reducing technical assistance under the state environmental policy act and in shoreline planning.

State Parks and Recreation Commission

The budget reduces the general fund appropriation by \$1.5 million for state park operations and assumes that some state parks may be closed. Based on an assessment of state park facility attributes, the State Parks and Recreation Commission may temporarily close some state parks. In addition, the Commission will assess whether to continue to operate parks owned by others, such as public utility districts, counties, and federal agencies. If the owners are unable to pay State Parks' operating costs, the facilities will be returned to the owners.

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The budget assumes that the Commission will take a variety of actions to reduce operating costs and achieve administrative savings totaling \$500,000. In addition, a 2001 enhancement for parks maintenance is reduced by \$500,000.

Conservation Commission

The budget provides \$600,000 from the Water Quality Account to the Conservation Commission for engineering grants to conservation districts for project design and approval of dairy waste management systems, irrigation systems, salmon recovery projects, and other natural resource protection activities that benefit salmon.

Department of Fish and Wildlife

The budget provides \$400,000 from the general fund to the Department of Fish and Wildlife to match federal funding to continue the commercial fishing license buy-back program under the terms of the Pacific Salmon Treaty.

The budget reduces the general fund appropriation by \$273,000 and assumes that the McAllister Creek fish hatchery will be closed.

The budget makes shifts totaling \$7 million. The Salmon Recovery Funding Board will consider funding grants to lead entities that recommend projects to the board and smolt production monitoring. The development of a forest roads management plan, Pacific coastal license buy-back, and the Lower Skykomish habitat conservation plan are shifted to the Salmon Recovery Account.

The budget assumes that the department will take a variety of actions to reduce operating costs and achieve administrative savings by \$2.4 million general fund. An additional \$3.9 million in general fund savings are made through the following program reductions: one position is eliminated and vacancies are maintained in the enforcement program; various construction crews are consolidated; watershed technical assistance is reduced and the Salmonid Screening, Habitat Enhancement, and Restoration and screen functions are reduced.

Department of Natural Resources

The budget provides \$1.8 million from the State Toxics Control Account to partially resolve the Department of Natural Resources (DNR) Superfund liability for cleanup of contamination in the Thea Foss waterway in Tacoma.

During the summer of 2001, there were a series of wildfires that significantly affected state and local fire fighting agencies. An additional \$33 million is provided for costs associated with the 2001 fire season and replenishing the fire contingency pool for future fires. This funding, combined with the \$3 million provided in the original 2001-03 budget, will fund the following costs: \$24.2 million for DNR and other natural resource agencies costs in fire suppression activities; \$7.8 million for fire mobilizations coordinated by the Military Department; and \$4 million as a contingency for fire mobilization and suppression activities in the future. In addition, the supplemental budget continues to fund \$15.2 million General Fund-State for fire suppression in DNR.

The budget provides \$400,000 from the general fund and \$800,000 from other fund sources to the department for correction camp supervisors.

The budget assumes that the department will take a variety of actions to reduce operating costs and achieve administrative savings of \$2.6 million from the general fund. In addition, funding in the forest practices program is reduced for development of the small forest landowners database, postponement of the "reasonable use rule," and postponement of the program's wetlands database. Funding is reduced for recreation lands management, including management of natural areas, public use enforcement, and urban-interface campgrounds.

Department of Agriculture

A \$700,000 general enhancement in the 2001-03 biennial budget for market development in the Department of Agriculture is replaced by federal funds. In October 2001, the state received federal funding of \$10.1 million to promote agriculture and specialty crops.

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 Special Appropriations, Transportation Current Law Budget, and Transportation New Law Budget Sections of this document.

Washington State Patrol

A total of \$1.1 million from the Fingerprint Identification Account is provided for improvements and upgrades to various criminal justice information systems maintained by the Washington State Patrol. These include: continued support of the Criminal History Backlog Elimination project; changes to keep the crime information and identification systems current with the needs of the public safety community; and implementing live-scan fingerprint technology throughout the state.

The Washington State Patrol, in cooperation with the Forensics Investigation Council, the Washington Association of Sheriffs and Police Chiefs, and the Washington Association of Prosecuting Attorneys have developed a comprehensive improvement plan to improve the delivery of forensic services to Washington law enforcement agencies, cities, and counties. Additionally, funding is provided for Chapter 289, Laws of 2002 (SHB 2468), which expands DNA data banking to additional felony offenders and certain misdemeanants. A total of \$1.1 million from other funds is provided for the implementation of a portion of the Forensic Laboratory Services Improvement Plan.

PUBLIC SCHOOLS

Maintenance Level Adjustments — \$126.3 Million General Fund-State

Enrollment and Workload Changes — \$105.3 Million General Fund-State

The February 2002 enrollment forecast from the Caseload Forecast Council increased K-12 enrollment by 8,827 full-time equivalent (FTE) students for the 2001-02 school year and 12,531 FTE students for the 2002-03 school year. Also included in workload changes are other adjustments including staff mix and local deductible revenues.

Levy Equalization Update — \$12.7 Million General Fund-State

Higher-than-expected assessed property values and local levy bases and increased voter approval of local levies increased the maintenance level amount for the Local Effort Assistance Program.

K-12 Inflation — \$6.2 Million General Fund-State Savings

Inflation adjustments are provided in the budget for K-12 basic education programs. The inflation forecast changed from 2.1 percent to 1.0 percent for fiscal year 2002 and from 2.3 percent to 1.7 percent for fiscal year 2003. Basic education budgets cannot be adjusted once school districts have set their budgets, so no changes are made for the 2001-02 school year. A budget adjustment is made for the 2002-03 school year taking into account the lower inflation in the previous year and the coming year. These adjustments result in a budgeted inflation rate of 1.01 percent for the 2002-03 school year.

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Initiative 732 Cost-of-Living Adjustment (COLA) — \$14.5 Million General Fund-State

The 2001 calendar year Seattle Consumer Price Index (CPI) used for the 2002-03 school year K-12 COLA mandated by Initiative 732 is higher than the 3.1 percent anticipated in the original 2001-03 budget. The new CPI estimate is 3.6 percent and results in a \$14.5 million increase for COLAs for state-funded K-12 staff.

Savings and Reductions

Pension Rate Change — \$53.9 Million General Fund-State Savings

Chapter 7, Laws of 2002 (HB 2782), changes employer and employee pension contribution rates based on the 1995-2000 experience study and 2000 actuarial valuation of the retirement systems. The change in rates is effective April 1, 2002.

Better Schools Class Size — \$24.6 Million General Fund-State Savings

Beginning with the 2002-03 school year, the Better Schools K-4 staffing ratio enhancement is reduced from 2.2 certificated instructional staff per 1,000 students to 0.8 staff per 1,000 students.

Health Benefit Rate Changes — \$29.5 Million General Fund-State Savings

The monthly funding rate for health, life, and disability insurance benefits for state-funded K-12 staff will increase from \$455.27 per month for the 2001-02 school year to \$457.07 for the 2002-03 school year. The original 2001-03 biennial budget provided \$493.59 per month for the 2002-03 school year.

Integrating Federal Funds — \$24.1 Million General Fund-State Savings, \$50.4 Million Federal Funds

Federal funds are incorporated in the funding of three programs in the following amounts: Special Education (\$17.3 million); Learning Assistance (\$5.8 million); and the Washington Assessments of Student Learning (\$1.0 million).

Staff Mix Calculation Change — \$18.9 Million General Fund-State Savings

Staff mix refers to the experience and education of a school district's certificated instructional staff. It is one of the components used to determine state funding in the General Apportionment and Special Education Programs and adjusts state funding based on the profile of a school district's staff in these two programs. Beginning with the 2002-03 school year, all of a district's certificated instructional staff are used to calculate staff mix.

Learning Improvement Days — \$12.1 Million General Fund-State Savings

Since 1993, the Legislature has provided funding for student learning improvement days to implement education reform. The allocation of funds for this has changed over the years. The latest change was in 1999 when the Legislature added three learning improvement days to the state salary allocation schedule for certificated instructional staff. Starting in the 2002-03 school year, only two extra days are provided.

Transfer to State Flexible Education Funds — \$6.8 Million General Fund-State Savings

A "State Flexible Education Fund" is created and funds are transferred into the program from various sources including various statewide grant programs. After a reduction of 24.7 percent, the funds are combined to create a flexible pool of funds for school districts allocated at a rate of \$21.55 per FTE student. The funds may be expended for local program enhancements as determined by school districts to improve student learning, including all the programs that were transferred into the new fund. The funds may not be expended to increase salary or compensation for existing teaching duties. Programs transferred and the amounts transferred are listed below.

State Flexible Education Funds Program	
General Fund-State	
(Dollars in Thousands)	
Source of Amounts Transferred In	
Block Grant Program	14,193
School Safety Allocation	6,084
Mentor/Beginning Teacher Assist at 50 Percent	2,347
Educational Centers	1,349
Complex Needs	1,075
Truancy	750
Superintendent/Principal Internships at 50 Percent	705
Paraprofessional Training at 50 Percent	547
Principal Assessment and Mentorships at 50 Percent	313
Total Transferred Amount	27,363
24.7 Percent Reduction	-6,751
State Flexible Education Fund Amount	20,612
Rate Per FTE Student	\$21.55

Traffic Safety Education — \$2.3 Million General Fund-State Savings

The General Fund-State subsidy for this program is eliminated. The budget was based on the assumption that \$6.6 million in Public Safety Education Account funds would become available for the program from enactment of HB 2573. The bill was not enacted resulting in no subsidy for the program for the 2002-03 school year.

Levy Equalization — \$1.5 Million General Fund-State Savings

The fiscal year 2003 levy equalization amount is adjusted to reflect the various policy changes in the K-12 supplemental budget. The budget also changes the per pupil inflator from 3.3 percent to 2.9 percent to reflect the change in per pupil spending in the 2002 supplemental budget. The change in per pupil expenditures is calculated using General Fund-State, General Fund-Federal, and Student Achievement Fund appropriations in fiscal year 2002 and fiscal year 2003. In addition, calendar year 2003 levy equalization allocations are reduced 1 percent as authorized by Chapter 317, Laws of 2002 (EHB 3011 – Local Effort Assistance).

Efficiencies and Savings — \$1.4 Million General Fund-State Savings

Most basic education programs not subject to transfer to the State Flexible Education Funds Program are reduced by 3.0 percent for fiscal year 2003. The major programs included in this reduction are: the Office of the Superintendent of Public Instruction; Educational Service Districts; Highly Capable; and summer Skills Center Programs.

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Public Schools 2002 Supplemental Budget	
General Fund-State	
(Dollars in Thousands)	
2002 Maintenance Changes	126,324
2002 Policy Changes	
Pension Rate Change	-53,962
Health Benefit Changes	-29,509
Better Schools	-24,551
Integrating Federal Funds	-24,142
Staff Mix Calculation Change	-18,982
Learning Improvement Days	-12,109
Transfer to Flexible Education Fund	-6,751
Traffic Safety Education Allocation	-2,283
Efficiencies and Savings	-1,436
Levy Equalization	-1,472
Levy Equalization Task Force	49
National Board Certification	70
Total Policy Changes	-175,078
Net Policy and Maintenance Changes	-48,754

HIGHER EDUCATION

Enrollment Increases

A one-time supplement of \$4 million from the state general fund and \$2.6 million from the State Administrative Contingency Account is provided to expand two-year college enrollment in workforce training by 1,320 full-time equivalent students. This enhancement is made in response to substantially increased demands for retraining from dislocated workers affected by restructuring and layoffs in the Washington State economy.

Financial Aid

A supplement of \$2.2 million from the state general fund is added to the State Need Grant Program to help support higher tuition charges expected in the second year. The Higher Education Coordinating Board is directed to adjust awards, where necessary, to ensure that students who meet the eligibility requirements of 55 percent of the state's median family income are served. Budget savings of \$2.4 million in state financial aid are realized by restricting new Promise scholarship awards to a maximum of \$1,000 a year.

College and University Operations

In enacting a supplemental budget, the Legislature approved \$53.9 million in undesignated, across-the-board reductions to operations supported by the general fund. The cuts amount to 5 percent of original, fiscal year 2003 appropriations to each four-year university and 3 percent of original, fiscal year 2003 appropriations to the State Board on behalf of community and technical colleges. Additional reductions for internal agency services, travel, and equipment are described in the Special Appropriations Section of this document.

Compensation

A cost-of-living adjustment (COLA) is increased from 3.1 percent to 3.6 percent effective July 1, 2002. This increase is funded with a \$1.3 million supplemental appropriation from the general fund for employees of state community and technical colleges who are covered by Initiative 732. Eliminating a 2.6 percent COLA budgeted for state employees not covered by Initiative 732 accounts for savings of \$21.5 million during fiscal year 2003.

The 2002 Legislature intended to make \$6 million in state general funds available for competitively awarded salary adjustments by four-year universities and The Evergreen State College to recruit and retain key faculty and professional staff. The Governor vetoed the recruitment and retention appropriations. For faculty at state community and technical colleges, increment increases during fiscal year 2003 are eliminated, resulting in general fund savings of \$1.2 million.

Benefit savings of \$6.6 million to the general fund are realized by approving new actuarial valuations that change contributions to pensions and by increasing the employee's assumed share of rising health benefit premiums at the state level. Additionally, a one-time appropriation of \$9.5 million from the state general fund and \$2.5 million from the College Faculty Awards Account provide for the settlement costs of a lawsuit involving retirement contributions for part-time instructors employed by state community and technical colleges during the years 1977 to 1999.

Tuition Policy

Governing boards of each institution and the State Board for Community and Technical Colleges are granted authority to decide the appropriate level of tuition for enrolled students during academic year 2002-03. Limits apply to tuition increases, but only for **undergraduates** as follows:

- For residents attending the University of Washington or Washington State University, no greater increase than 16 percent over current year rates;
- For residents attending the regional universities of Eastern, Western, Central, or The Evergreen State College, no greater increase than 14 percent over current year rates;
- For residents attending state community and technical colleges, no greater increase than 12 percent over current year rates.

The 2002 Legislature chose not to limit tuition action by institutions with respect to **non-resident students and graduate students** for the coming academic year. For the remainder of the biennium, the Legislature encourages state colleges and universities to reduce waiver activity recognizing the need to preserve the quality of academic programs supported by tuition.

OTHER EDUCATION

State Library

The State Library is transferred to the Office of the Secretary of State. Funding for the Library is provided to the Governor; however, general funds are reduced by \$279,000 with the exception of grants for the Washington Talking Book and Braille Library.

SPECIAL APPROPRIATIONS

Cost-of-Living Adjustments

Funding is eliminated that would have provided a 2.6 percent salary increase in fiscal year 2003 for state classified employees, exempt employees, and employee groups not under the jurisdiction of the Washington Personnel Resources Board, such as assistant attorneys general, judicial employees, and commissioned Washington State Patrol officers. This results in general fund savings of \$2.89 million.

Other General Fund-State salary savings for fiscal year 2003 include eliminating a 2.6 percent increase for higher

2002 Supplemental Budget (ESSB 6387)

education employees not covered by Initiative 732, saving \$21.5 million. (See agency detail in the Higher Education Section.) Vendor rate increases of 2.3 percent are reduced to 1.5 percent, saving \$9.4 million. (See agency detail in the Human Services Section and the Department of Community, Trade, and Economic Development.)

State Employee Health Benefits

The state will increase its payments for state and higher education employee health benefits by 6.5 percent in fiscal year 2003, rather than by 8.8 percent as originally budgeted, for a savings of \$3.5 million General Fund-State. Specific impacts upon employee medical benefits and cost-sharing will be determined by the Public Employees' Benefits Board during the summer, following the review of price quotations submitted by participating insurance plans. By way of example, the new state contribution to health benefits is roughly equivalent to what would occur if: (a) office visit co-pays for employees enrolled in managed care plans were increased to \$15, from their current level of \$10; (b) the average employee paid \$57 of their family's monthly medical premium next year, compared to \$37 per month now; (c) the employer contribution to prescription drug benefits is reduced by 10 percent; and (d) recipient co-insurance on the Uniform Medical Plan is increased to 15 percent, from the current level of 10 percent.

Pension Contribution Rate Adjustments

The budget, in separate legislation (Chapter 7, Laws of 2002 – HB 2782), includes reductions in employer and state contributions for the Public Employees' Retirement System (PERS), School Employees' Retirement System (SERS), Teachers' Retirement System (TRS), and Law Enforcement Officers' and Fire Fighters' (LEOFF) Retirement Plan 2 and employee contribution rates for the Plan 2 retirement systems. Most of the savings (\$54 million) are in the K-12 system.

The 1995-2000 Experience Study conducted by the Office of the State Actuary showed that the contribution rates for PERS, SERS, TRS, and LEOFF were higher than necessary to fully fund those systems. Effective April 1, 2002, employer contribution rates were reduced from 1.54 percent to 1.10 percent for PERS; 1.54 percent to 0.96 percent for SERS; and 2.75 percent to 1.05 percent for TRS. The basic state contribution rate for LEOFF 2 was reduced from 1.80 percent to 1.75 percent.

Plan 2 employees' contribution rates were reduced from 4.50 percent to 4.39 percent for LEOFF 2; 0.88 percent to 0.65 percent for PERS 2; 0.88 percent to 0.35 percent for SERS 2; and 1.23 percent to 0.15 percent for TRS 2.

Extraordinary Criminal Justice Assistance

An amount of \$394,000 from the Public Safety and Education Account is provided for assistance to Franklin and Stevens counties for extraordinary judicial and other criminal justice costs incurred in the adjudication of aggravated homicide cases.

Fire Mobilization and Fire Suppression

During the summer of 2001, there were a series of wildfires that significantly affected state and local fire fighting agencies. An additional \$33 million is provided from the Disaster Response Account to cover costs associated with the 2001 fire season and to replenish the fire contingency pool for future fires. This funding, combined with the \$3 million provided in the original 2001-03 budget, will fund the following costs: \$24.2 million for the Department of Natural Resources and other natural resource agencies costs in fire suppression activities; \$7.8 million for fire mobilizations coordinated by the Military Department; and \$4 million as a contingency for fire mobilization and suppression activities in the future.

Local Government Backfill

After the passage of Initiative 695 in 1999, the Legislature replaced a portion of the lost Motor Vehicle Excise Tax (MVET) funding for local governments for the remainder of fiscal year 2000 and for fiscal year 2001. This backfill was continued in the 2001-03 operating budget, when \$48.3 million was appropriated for Public Health Districts, \$93.1 million for cities, and \$49.5 million for counties.

The 2002 Supplemental Operating Budget did not change the fiscal year 2002 appropriations but did eliminate or modify city and county appropriations for fiscal year 2003. The Public Health district appropriations were left unchanged.

The appropriation to cities was reduced from \$47.3 million to \$8.0 million and the money directed only to those cities hardest hit by the loss of MVET funds as measured by the percentage loss compared with unrestricted revenues. Those cities whose loss was less than 10 percent received no backfill. Those cities where the loss was greater than 10 percent received backfill that grew proportionally with the loss.

The county appropriation was reduced from \$25.1 million to \$5 million and directed to 18 counties most affected by the loss of MVET funds.

Efficiency Reductions

A variety of efficiency reductions were made to state agencies' appropriations, as described below.

1. Administrative reductions were made directly to agencies' fiscal year 2003 appropriations. Agencies are expected to achieve these savings in a manner consistent with the agency's mission, goals, and objectives while, to the greatest extent possible, maintaining client services. Examples of actions that may be taken by state agencies include hiring freezes, employee furloughs, and reductions in employee travel and training, equipment purchases, and personal service contracts. For the amount of each agency's reduction, see the table on the following pages.
2. Revolving fund appropriations were reduced by \$3.7 million from the state general fund and by \$4.2 million from other funds. State agencies that provide services to other state agencies are directed to reduce their expenditures and to share the savings with their clients. The savings are captured in client state agencies' budgets through reductions in their revolving fund appropriations. The Office of Financial Management will distribute the revolving fund reductions to client state agencies through the allotment process.
3. Across-the-board reductions in expenditures for employee travel (\$3.0 million general fund) and equipment purchases (\$2.3 million general fund) to reflect the elimination of nonessential travel and a freeze on equipment purchases. (Reductions in travel and equipment purchases for the Senate and House of Representatives were made directly to the appropriations of the two agencies.)
4. A contingency fund of \$1.5 million is provided to the Governor to provide assistance to state agencies that are unable to absorb these efficiency reductions. The Governor may also use his Emergency Fund appropriation for this purpose.

2002 Supplemental Capital Budget (ESSB 6396)

2002 Supplemental Capital Budget Highlights

The 2002 Supplemental Capital Budget (ESB 6396) was enacted as Chapter 238, Laws of 2002, Partial Veto. The budget used \$88 million of new state bond proceeds, \$43 million of unspent Education Construction Account funds, and \$12 million of budget savings for a total of \$143 million of capital projects.

This new spending was in three major areas: \$108.5 million for economic stimulus projects; \$17.0 million in “routine” supplemental items; and \$17.5 million in changed financing for some projects.

The economic stimulus package was designed to create jobs throughout the state. For this reason, higher education institutions, State Parks and Recreation Commission, and Department of Fish and Wildlife projects were targeted, as well as the Military Department, the Department of Social and Health Services, and the Department of Corrections (DOC). In addition, \$17.7 million was included for the dredging of the Columbia River. The \$17.0 million of “routine” supplemental items was focused primarily on DOC caseload-driven needs and less-than-expected federal funds. Finally, the \$17.5 million of higher education projects previously financed from cash were reprogrammed with bond proceeds allowing for a transfer of funds to the operating budget to help address the revenue shortfall.

Governor Locke vetoed two sections of the bill: Section 104 which would have modified the underlying appropriation for a governance study of the Burke Museum and Section 126(3) which provided a direct appropriation to People for Salmon from Salmon Recovery Funding Board grants. This second veto reduced the total appropriation by \$649,000.

The combination of the national economy slipping into a recession, the state suffering the economic effects of September 11, 2001, and the announcement of 30,000 lost jobs at Boeing reduced the forecast of general fund revenues by \$813 million in November. These same factors led to a further reduction in forecasted revenues in February 2002. Due to the fact that the state’s debt limit is calculated based on a percentage of general state revenues, the forecast reduction lowered the statutory debt limit and put \$195 million of the projects in the underlying 2001-03 capital budget at risk.

To address this situation, the Legislature passed Chapter 240, Laws of 2002 (SB 6818 – The Bond Bill). This bill authorized the State Finance Committee to issue up to \$88 million of state general obligation bonds to finance projects appropriated in the 2002 supplemental capital budget. The traditional method of calculating “general state revenues,” used for calculating the statutory debt limit, was broadened to include the real estate excise tax, which already goes to the general fund. This change of definition had the effect of increasing the debt service capacity within the statutory 7 percent debt limit, covering the reduced bond capacity caused by the revenue reductions and allowing the financing of the economic stimulus package.

2002 Supplemental Transportation Current Law Budget Highlights

Chapter 359, Laws of 2002, Partial Veto (ESHB 2451)

Transportation Budget Comparisons	
(Dollars in Millions)	
1999-01 Transportation Funding	
1999-01 Final Funding Level	3,301.0
2001-03 Transportation Funding	
2001-03 Funding	* 3,403.3
Tacoma Narrows Bridge Bonds	800.0
2002 Supplemental Expenditure Differences	-34.1
Revised 2001-03 Funding	<u>4,169.2</u>
<p><i>* Includes \$47 million in reappropriated Tacoma Narrows Bridge funding. By fiscal year 2002, the agency had not spent \$39 million of the reappropriation.</i></p> <p><i>Note: \$307.6 million in Bond Retirement and Interest amounts are not included.</i></p>	

2001-03 Budget Challenges: \$165.6 Million

Funding Challenges

- In 2001, the original 2001-03 Omnibus Operating Budget provided support to transportation on the expectation of \$100 million in funding through anticipated enactment of 2ESSB 6166 (Restating Plan 1 of the Law Enforcement Officers' and Firefighters' (LEOFF) Retirement System). This support did not materialize as 2ESSB 6166 failed to pass the 2001 Legislature.
- Additional revenue losses resulted over the past year from a decline in federal funds and other miscellaneous revenues.

Emerging Budget Issues

- The Transportation Budget assumes one-time expenditure responsibility for the Washington State Patrol functions previously funded by the Omnibus Operating Budget.
- An increased demand on the state's self-insurance fund increased the premiums paid by transportation agencies.
- Additional expenditures were incurred due to increases in Attorney General and ferry insurance costs, local government statutory mandates, and a need for increased ferry security following the attacks of September 11, 2001.

2002 Transportation Budget (ESHB 2451)

Revenue Shortfalls: \$121.5 Million

- \$70 million reduction resulted from a transfer of revenue from the Multimodal Account to the general fund. If 2ESSB 6166 had been enacted, the funding would have been replaced by LEOFF funds.
- \$30 million reduction resulted when funds were not transferred to the Puget Sound Ferry Operations Account from the Pension Asset Reserve Account as contemplated in the LEOFF bill during the 2001 session.
- \$21.5 million reduction in federal funds, forecast adjustments, and overestimated reappropriations.

New Expenditures: \$44.1 Million

- \$14.9 million increase to adequately fund transportation's share of the self-insurance fund.
- \$14.4 million to fund bills passed by the Legislature, office leases, and other maintenance level expenditures.
- \$12.6 million additional for one-time transportation funding of the Washington State Patrol's Omnibus Operating Budget activities.
- \$2.2 million to enhance security of the state ferry system.

2001-03 Budget Solutions: \$166.9 Million

Revenue losses and new liabilities are partially mitigated through reductions in programs, transfers of available fund balances, and cost-recovery related increases in several license fees.

Revenue Adjustments: \$33.4 Million

- \$33.4 million generated through fee increases designed to allow the Department of Licensing (DOL) to reach cost recovery on selected services. (Chapter 240, Laws of 2002 -- SSB 6814)

Expenditure Adjustments: \$133.5 Million

- \$21.2 million in cost of living and pension rate withholding reductions along with \$112.3 million in funding adjustments.

Balancing the 2001-03 Budget	
(Dollars in Millions)	
Problems	
Revenue Shortfalls	121.5
New Budget Needs	44.1
Total *	165.6
Solutions	
Expenditure Reductions	112.3
DOL Fee Increases	33.4
COLA and Pension Withholding Reductions	21.2
Total *	166.9
<p><i>* Does not include increased expenditure authority for the Transportation Improvement Board and the County Road Administration Board to the extent that available fund balances in their dedicated accounts were available (\$35 million).</i></p>	

Transportation Expenditures

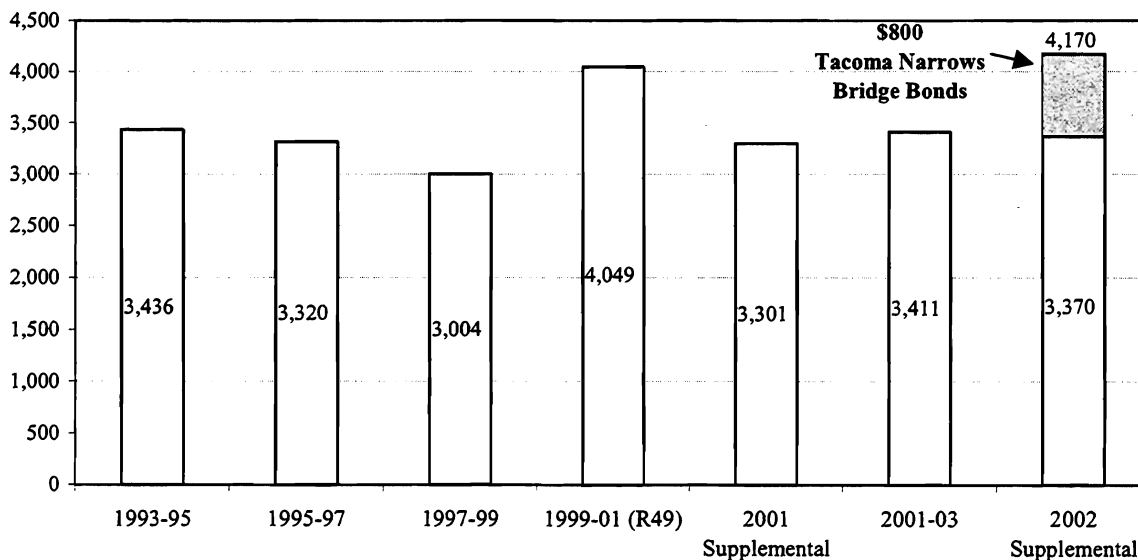
The net reduction in transportation expenditure authority of \$34.1 million is a compilation of expenditure changes, which includes:

- \$112 million in reductions;
 - o \$66 million in reductions to the Washington State Department of Transportation (WSDOT) Improvement Program. This includes project deferrals of \$40 million and reappropriation adjustments for project dollars spent in 1999-01;
 - o Other reductions include \$21 million in the WSDOT Highway Preservation Program for earthquake repair work where the actual costs were lower than the initial planned costs;
 - o \$10 million in Washington State Ferries for deferred preservation on vessels and terminals and \$12 million in savings for lower fuel costs; and,
 - o \$3 million are program reductions and technical adjustments.
- \$35 million in Transportation Improvement Board and County Road Administration Board fund balance appropriations; and
- \$44 million in new authority for emerging issues, security enhancements, and technical adjustments.

Tacoma Narrows Bridge

Chapter 114, Laws of 2002 (EHB 2723), revised the financing for the Tacoma Narrows Bridge project by allowing the use of state bonds to finance construction of the bridge. The supplemental budget implements the change by appropriating \$839 million for the project. Of that amount, \$800 million is provided from the proceeds of the sale of state bonds and \$39 million is transferred from the Motor Vehicle Account to the Tacoma Narrows Bridge Toll Account.

**Transportation Appropriations
1993-95 to 2001-03
(Dollars in Millions)**



2002 Transportation Budget (ESHB 2451)

Highlighted Revisions in Appropriation Authority

Department of Transportation

Additions:

- \$800 million for construction of a second bridge over the Tacoma Narrows
- \$14.9 million for increased self-insurance liability premiums
- \$1.0 million for ferry insurance premium increase
- \$900,000 for maintaining existing levels of passenger rail service
- \$398,000 for U.S. v. Washington (Culverts) legal case preparation
- \$350,000 for grants to local airports
- \$300,000 for Public Private Initiative Study
- \$147,000 state match for federal aviation planning grants

Reductions:

- \$60 million to the Improvement Program for project deferrals and reappropriation adjustments
- \$21 million to the Preservation Program for earthquake repair over estimates
- \$11.7 million for ferry fuel price reductions
- \$518,000 reduction for motorist information panel program

County Road Administration Board

- \$8.7 million for additional grants to counties

Transportation Improvement Board

- \$25.9 million for additional mobility improvement grants to local jurisdictions

Washington State Patrol

Additions:

- \$12.6 million for one-time Omnibus Operating Budget assistance
- \$1.9 million for state ferry security
- \$243,000 for Motor Carrier Safety Assistance Program Grant increase
- \$137,000 for Weigh in Motion maintenance

Reductions:

- \$1 million for technical adjustments
- \$455,000 for agency identified savings in commissioned officers overtime, mission vehicles, cell phone usage, supplies, equipment, travel, training, and fuel

Department of Licensing

Additions:

- \$1.4 million to implement bills passed by the Legislature
- \$1.1 million for commercial driver license fraud
- \$1.1 million for field system equipment
- \$1 million for technical adjustments
- \$350,000 for motorcycle training
- \$109,000 for systems management software

2002 Transportation Budget (ESHB 2451)

2001-03 Washington State Transportation Current Law Budget

TOTAL OPERATING AND CAPITAL BUDGET

Total Appropriated Funds

(Dollars in Thousands)

	Original 2001-03 Appropriations	2002 Supplemental Budget	Revised 2001-03 Appropriations
Department of Transportation	2,682,728	712,977	3,395,705
Pgm D - Hwy Mgmt & Facilities	64,095	-5	64,090
Pgm F - Aviation	5,012	497	5,509
Pgm I1 - Improvements - Mobility	478,839	-33,977	444,862
Pgm I2 - Improvements - Safety	144,957	1,369	146,326
Pgm I3 - Improvements - Econ Init	156,406	-31,039	125,367
Pgm I4 - Improvements - Env Retro	18,982	4,089	23,071
Pgm I7 - Tacoma Narrows Br	47,682	798,573	846,255
Pgm K - Transpo Economic Part	2,553	295	2,848
Pgm M - Highway Maintenance	279,973	-14	279,959
Pgm P1 - Preservation - Roadway	278,682	-2,517	276,165
Pgm P2 - Preservation - Structures	167,962	-5,569	162,393
Pgm P3 - Preservation - Other Facil	131,528	-12,426	119,102
Pgm Q - Traffic Operations	56,747	-518	56,229
Pgm S - Transportation Management	106,936	438	107,374
Pgm T - Transpo Plan, Data & Resch	33,283	0	33,283
Pgm U - Charges from Other Agys	28,080	14,749	42,829
Pgm V - Public Transportation	14,439	-200	14,239
Pgm W - WA State Ferries-Cap	187,376	-10,014	177,362
Pgm X - WA State Ferries-Op	321,673	-10,361	311,312
Pgm Y - Rail	54,644	-203	54,441
Pgm Z - Local Programs	102,879	-190	102,689
Washington State Patrol	243,514	13,496	257,010
Field Operations Bureau	169,334	2,260	171,594
Investigative Services Bureau	0	5,088	5,088
Support Services Bureau	70,695	7,023	77,718
Capital	3,485	-875	2,610
Department of Licensing	165,999	4,819	170,818
Management & Support Services	12,303	221	12,524
Information Systems	9,337	386	9,723
Vehicle Services	60,770	2,265	63,035
Driver Services	83,589	1,947	85,536
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	80,620	8,721	89,341
Transportation Improvement Board	213,295	25,886	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	3,403,319	765,899	4,169,218
Bond Retirement and Interest	303,636	3,992	307,628
Total	3,706,955	769,891	4,476,846

2002 Transportation Budget (ESHB 2451)

Referendum 51 Revenue Package and Associated Budget

Chapter 202, Laws of 2002 (ESHB 2969) and Chapter 201, Laws of 2002, Partial Veto (ESSB 6347)

Transportation Budget Comparisons (Dollars in Millions)	
1999-01 Transportation Funding	
1999-01 Final Funding Level	3,301.0
2001-03 Transportation Funding	
2001-03 Funding	* 3,403.3
Tacoma Narrows Bridge Bonds & 2002 Supplemental Expenditure Differences	765.9
2-Year New Law Budget (ESSB 6347) Expenditures	1,346.1
Revised 2001-03 Funding (Dependent Upon Passage of Referendum 51)	5,515.3
<i>* Includes \$47 million in reappropriated Tacoma Narrows Bridge funding. By fiscal year 2002, the agency had not spent \$39 million of the reappropriation.</i>	
<i>Note: \$307.6 million in Bond Retirement and Interest amounts are not included.</i>	

2002 New Law Revenue Legislation

ESHB 2969 raises revenue for statewide improvements and authorizes a gas tax increase, sales tax on vehicles, gross weight fees, and earmarking of sales tax on highway construction to additional transportation projects. This legislation is Referendum 51 and will be on the ballot for a statewide vote in November 2002.

2002 New Law Expenditure Legislation

ESHB 6347 provides the 2001-03 biennium expenditure authority for the revenues generated by ESHB 2969 and takes effect only if the voters approve the referendum and ESHB 2969 becomes law.

Individual appropriations are provided for specific projects, and appropriations are linked to project phases. In addition to the appropriations, future costs are shown for the ten-year planning period. The bill permits the Department of Transportation to transfer funds from one project to another if there are excess funds for the project and the Governor, through the Office of Financial Management, approves.

Appropriations for 2001-03 are dependent on cash receipts and bond proceeds supported by fees proposed in Referendum 51. Appropriations made by phases are based on work elements rather than estimated expenditures during a fiscal period. It is expected that the 2001-03 appropriations will require a significant level of reappropriation in subsequent biennia. Bond sales will be tailored to meet cash flow requirements.

Summary of Revenue Legislation & Transportation Funding Impacts

Addressing Transportation Improvement and Financing

ESHB 2969 contains a referendum to the voters on the question of whether fees and taxes should be raised to fund state and local transportation projects. The referendum will be presented to the voters in November 2002. The fee and tax increases, combined with the sale of bonds, are intended to raise approximately \$7.8 billion over ten years to improve highway capacity, auto and passenger ferries, public transportation, and passenger and freight rail.

Major elements of the referendum include:

- The establishment of the Legislative Transportation Accountability Committee for project review and oversight.
- A 15 percent increase in weight fees on trucks over 10,000 pounds on January 1, 2003, and an additional increase on January 1, 2004, to bring the total increase to 30 percent over two years. The increase does not apply to pickup trucks and recreational vehicles.
- An increase in the state gas tax of 9 cents per gallon. The increase is staged by applying a 5 cents per gallon increase January 1, 2003, and an additional 4 cents per gallon increase on January 1, 2004.
- A sales tax surcharge of 1 percent is applied to the sale of new and used vehicles beginning April 1, 2003.
- In fiscal year 2006, the sales tax paid on highway construction projects is moved from the general fund to transportation.

Summary of New Law Expenditures

Area of Investment

10-Year Plan / 2-Year Appropriation

Mobility, Safety, and Freight Improvements

\$5,557 million / \$1,184 million

The ten-year plan of \$5,557 million for mobility, safety, and freight projects includes: SR-405 (\$1,770 million), core High Occupancy Vehicle system (\$693 million), SR-509 (\$500 million), Alaskan Way Viaduct (\$450 million), SR-167 (\$343 million), SR-395 (\$207 million), local Freight Mobility Strategic Investment Board (\$116 million), Snoqualmie Pass (\$100 million), and SR-520 Translake (\$100 million), safety improvements (\$102 million), environmental retrofit improvements (\$26 million), and structure preservations (\$6 million). Anticipated state funding will not, in many cases, cover the full cost of the project. The initial 2001-03 appropriation for all of these activities totals \$1,184 million.

Local Programs

\$330 million / \$16 million

The ten-year plan includes a mix of direct gas tax distributions to city and county jurisdictions and funding of five grant programs targeted to cities, towns, counties, ports, and other local governments. Grant programs will target improvements to congested urban and rural corridors, transportation-related economic development projects, enhancements near schools, and a pavement management system in cities under 10,000 in population.

Ferries

\$688 million / \$33.1 million

The ten-year plan for ferries includes \$688 million to replace vessels, improve terminals, and expand passenger-only service in the Central Puget Sound. Four new auto ferries will be constructed over the next eight years to replace the steel-electric vessels that were built in 1927. Terminal enhancements are planned at Mukilteo, Anacortes, and Edmonds. Overall, system preservation levels will be enhanced for all of the terminals and vessels. Finally, additional passenger-only service will be initiated between Kingston and Seattle and Southworth and Seattle. The initial 2001-03 appropriation for all of these activities totals \$33.1 million.

2002 Transportation Budget (ESHB 2451)

Public Transportation

\$819.8 million / \$39 million

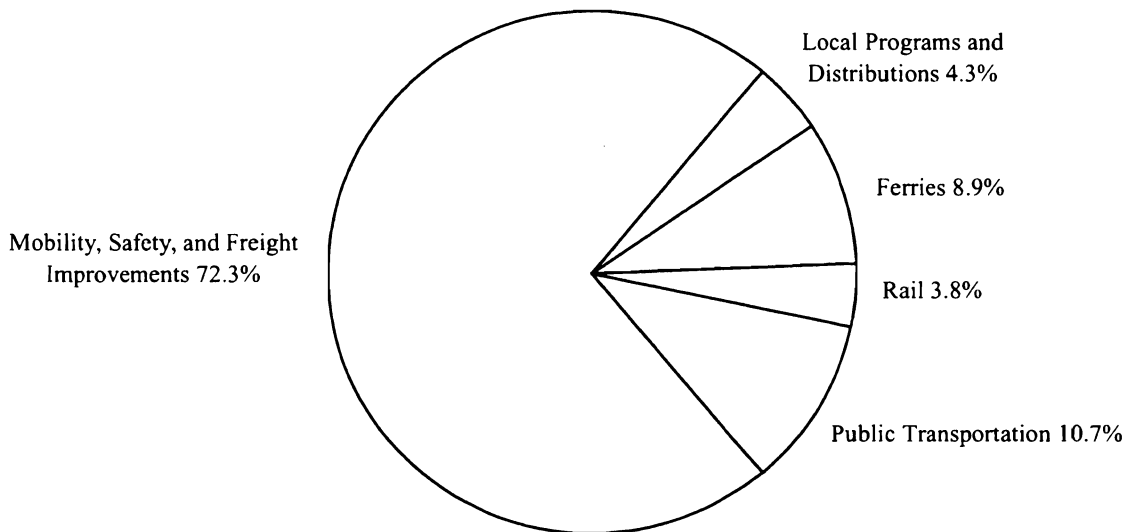
Public transportation's ten-year plan includes \$819.8 million to be distributed directly to programs and in the form of grants. Eligible transit systems, vanpool expansion projects, and park and ride projects will receive state funds directly. Grants will be available for rural mobility to connect rural areas and to paratransit for services for the elderly, disabled, and those with low-income status. In addition, the commute trip reduction program will receive funds in the form of grants and tax credits. The 2001-03 appropriations for the public transportation system are \$39 million.

Rail

\$294 million / \$28.6 million

Funding for the rail system includes \$294 million for passenger rail capital and operating expenses, the freight rail assistance program to fund capital projects, and the Washington Fruit Express Program for enhancing the transport of produce to the east coast. The 2001-03 appropriations for the rail program are \$28.6 million.

10-Year Distribution of New Law Expenditures



2002 Transportation Budget (ESHB 2451)

2001-03 Washington State Transportation New Law Budget

ESSB 6347 Enacted -- Subject to Passage of Referendum 51

TOTAL OPERATING AND CAPITAL BUDGET

Total Appropriated Funds

(Dollars in Thousands)

Department of Transportation	1,336,002
Pgm I1 - Improvements - Mobility	1,028,659
Pgm I2 - Improvements - Safety	62,445
Pgm I3 - Improvements - Econ Init	64,437
Pgm I4 - Improvements - Env Retro	12,956
Pgm P2 - Preservation - Structures	6,000
Pgm T - Transpo Plan, Data & Resch	4,225
Pgm V - Public Transportation	39,000
Pgm W - WA State Ferries-Cap	33,137
Pgm Y - Rail	70,743
Pgm Z - Local Programs	14,400
Department of Revenue	100
Transportation Improvement Board	10,000
Total	1,346,102

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2002 FINAL LEGISLATIVE REPORT

SECTION III

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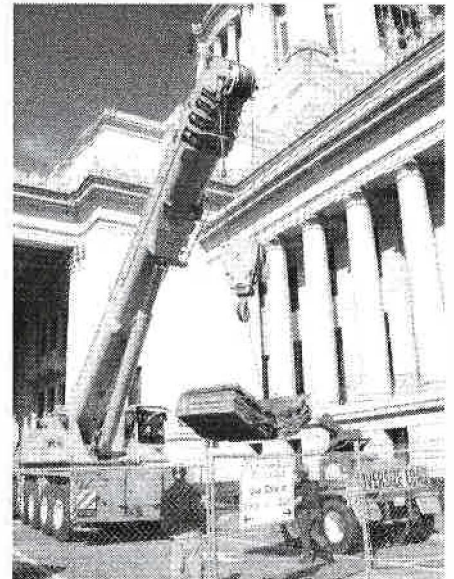
SESSION LAW TO BILL NUMBER TABLE

GUBERNATORIAL APPOINTMENTS CONFIRMED

LEGISLATIVE LEADERSHIP

LEGISLATIVE MEMBERS BY DISTRICT

STANDING COMMITTEE ASSIGNMENTS



Financing for the Legislative Building rehabilitation project will come mostly from bonds repaid from timber sales on state trust lands set aside exclusively for capitol buildings. About \$5 million will come from federal government and matching state funds in response to the 2001 earthquake. During construction, the Senate will operate in the Joel M. Pritchard Building and two modular buildings were erected in the library parking lot for the House chambers and offices. Completion of the project is set for November 2004.

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Topical Index

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C 244	L 02	Animal control authorities	SSB 6635
C 245	L 02	Salvage vehicles	SB 6530
C 246	L 02	Stolen vehicles	HB 2286
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C 248	L 02 PV	City transportation authority	ESSB 6464
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C 250	L 02 PV	Climate and energy center	ESHB 2326
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C 253	L 02	Cheating at gambling	SB 5064
C 254	L 02	Weighing stations	SB 5138
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C 263	L 02	Fire code inspections	2ESB 6001
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C 275	L 02	School technology facilities	SSB 6515
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C 287	L 02	Biodiversity conservation	ESSB 6400
C 288	L 02	Hazardous substances	ESHB 1411
C 289	L 02	Offender DNA data base	SHB 2468
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C 294	L 02	Low-income housing	SHB 2060
C 295	L 02	Charitable gift annuity	SHB 2160
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C 307	L 02	Obsolete racial terminology	ESB 5954
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C 318	L 02	DNA testing	ESSB 5207
C 319	L 02	Retirees/health care benefits	ESSB 5777
C 320	L 02	Growth management act	SSB 5841
C 321	L 02	Motorists information sign panels	2SSB 5949
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C 323	L 02	Construction defect claims	SSB 6409
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C 332	L 02	Risk management	HB 2352
C 333	L 02	Agency loss prevention	ESSB 6428
C 334	L 02	Admissibility of evidence	SB 6429
C 335	L 02	Public disclosure exemptions	SSB 6439
C 336	L 02	Personal information privacy	ESSB 6700
C 337	L 02 PV	Fire fighters/occupational disease	2SHB 2663
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C 339	L 02	Civil actions/arbitration	SB 5373
C 340	L 02	Civil disorder	ESHB 2505
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C 342	L 02	State library	SHB 2926
C 343	L 02	Local real estate excise tax	2SSB 5965
C 344	L 02	Insurance premiums	SSB 6234
C 345	L 02	Principal and income act	SSB 6267
C 346	L 02	Consumer loan act	SB 6338
C 347	L 02	Contracts of insurance	SB 6526
C 348	L 02 PV	Higher education coordinating board	SB 6557
C 349	L 02	Shared game lottery/education	E2SSB 6560
C 350	L 02	Students with diabetes	ESSB 6641
C 351	L 02	Victims of crimes	SB 6763
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C 353	L 02	Schools/salary formula	SSB 6823
C 354	L 02 PV	Civil service	SHB 1268
C 355	L 02	Transportation employees/motorists assault	SB 5513
C 356	L 02 PV	Collective bargaining	2SHB 2403
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C 363	L 02 PV	Public facility districts	3SSB 5514
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C 366	L 02	Medical care for immigrants	SSB 6833
C 367	L 02	Use taxation	SB 6835
C 368	L 02 PV	Hydraulic permits	ESHB 2866
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C 370	L 02	Fireworks and explosives	2SSB 6080
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2002 Gubernatorial Appointments Confirmed

EXECUTIVE AGENCIES

Employment Security Department

Sylvia Mundy, Commissioner

Health Care Authority

Ida Zodrow, Administrator

Washington State Patrol

Ron Serpas, Chief

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Inez Zozaya-Geist

Jenna T...

University of Washington

Sally Jewell

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Jeffrey R. Kelly

Grace T. Yuan

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Higher Education Coordinating Board

Gene Colin

Roberta Greene

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Big Bend Community College District No. 18

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Columbia Basin Community College District No. 19

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Grays Harbor Community College District No. 2

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Green River Community College District No. 10

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Lake Washington Technical College District No. 26

Jean Batchelder

Phillip Boshaw

Sherada C. Washington

Olympic Community College District No. 3

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Peninsula Community College District No. 1

Ronald W. Johnson

Barbara A. Koerber

Pierce Community College District No. 11

James P. Dawson

Renton Technical College District No. 27

Ronnie Behnke

Diane Postlewait

Seattle, So. Seattle and No. Seattle Community College District No. 6

Yvonne Sanchez

Skagit Valley Community College District No. 4

Mel Takehara

Gubernatorial Appointments Confirmed

**Spokane and Spokane Falls Community
Colleges District No. 17**
Tom Kneeshaw

**Walla Walla Community College District
No. 20**
Jerry R. Hendrickson

**Wenatchee Valley Community College District
No. 15**
Bob Myers

Whatcom Community College District No. 21
Phyllis S. Self

STATE BOARDS, COUNCILS AND COMMISSIONS

**Academic Achievement and Accountability
Commission**
Art Himmler

State School for the Deaf
Duane Sommers

Energy Facility Site Evaluation Council
James O. Luce, Chair

Fish and Wildlife Commission
Russ Cahill
Ronald D. Ozment

Forest Practices Appeals Board
Joel Robert Rupley

Gambling Commission
Elizabeth McLaughlin

Human Rights Commission
Dallas Barnes

K-20 Educational Network Board
Martin Smith

Lottery Commission
Melinda E. Travis

**Pacific NW Electric Power and Conservation
Planning Council**
Frank L. Cassidy, Jr.

Pollution Control/Shorelines Hearing Board
Bill Lynch

Public Disclosure Commission
Lois Clement

Sentencing Guidelines Commission
Deborah Moore
Janis Gall-Martin

**Small Business Export Finance Assistance
Center Board of Directors**
Howard Granger

Transportation Commission
Elmira Forner

Utilities and Transportation Commission
Patrick J. Oshie

**Washington Public Power Supply System
Executive Board of Directors**
Amy C. Solomon

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Betti L. Sheldon Majority Floor Leader
Tracey Eide Majority Whip
Ken Jacobsen Majority Caucus Vice Chair
Jeri Costa Majority Asst. Floor Leader
Jim Kastama Majority Assistant Whip

Republican Caucus

James E. West Republican Leader
Patricia S. Hale Republican Caucus Chair
Larry Sheahan Republican Floor Leader
Jim Honeyford Republican Whip
Stephen L. Johnson Republican Deputy Leader
Joseph Zarelli Republican Caucus Vice Chair
Don Carlson Republican Asst. Floor Leader
Mike Hewitt Republican Assistant Whip

Legislative Members by District

District 1

Sen. Rosemary McAuliffe (D)
Rep. Al H O'Brien (D-1)
Rep. Jeanne A Edwards (D-2)

District 2

Sen. Marilyn Rasmussen (D)
Rep. Roger R Bush (R-1)
Rep. Tom J Campbell (R-2)

District 3

Sen. Lisa J Brown (D)
Rep. Alex W Wood (D-1)
Rep. Jeff S Gombosky (D-2)

District 4

Sen. Bob McCaslin (R)
Rep. Larry W Crouse (R-1)
Rep. Lynn Maureen Schindler (R-2)

District 5

Sen. Dino Rossi (R)
Rep. Glenn Anderson (R-1)
Rep. Cheryl A Pflug (R-2)

District 6

Sen. James E West (R)
Rep. Brad D Benson (R-1)
Rep. John Ahern (R-2)

District 7

Sen. Bob Morton (R)
Rep. Bob F Sump (R-1)
Rep. Cathy A McMorris (R-2)

District 8

Sen. Patricia S Hale (R)
Rep. Shirley W Hankins (R-1)
Rep. Jerome L Delvin (R-2)

District 9

Sen. Larry L Sheahan (R)
Rep. Don L Cox (R-1)
Rep. Mark G Schoesler (R-2)

District 10

Sen. Mary Margaret Haugen (D)
Rep. Barry Sehlin (R-1)
Rep. Kelly J Barlean (R-2)

District 11

Sen. Margarita Prentice (D)
Rep. Eileen L Cody (D-1)
Rep. Velma R Veloria (D-2)

District 12

Sen. Linda Evans Parlette (R)
Rep. Clyde C Ballard (R-1)
Rep. Mike Armstrong (R-2)

District 13

Sen. Harold Hochstatter (R)
Rep. Janea Holmquist (R-1)
Rep. Joyce C Mulliken (R-2)

District 14

Sen. Alex A Deccio (R)
Rep. Mary K Skinner (R-1)
Rep. Jim A Clements (R-2)

District 15

Sen. Jim Honeyford (R)
Rep. Bruce Q Chandler (R-1)
Rep. Barbara S Lisk (R-2)

District 16

Sen. Mike Hewitt (R)
Rep. Dave Mastin (R-1)
Rep. Bill A Grant (D-2)

District 17

Sen. Don Benton (R)
Rep. Marc J Boldt (R-1)
Rep. Jim K Dunn (R-2)

District 18

Sen. Joseph Zarelli (R)
Rep. Tom M Mielke (R-1)
Rep. Ed Orcutt (R-2)

District 19

Sen. Sid Snyder (D)
Rep. Brian A Hatfield (D-1)
Rep. Mark L Doumit (D-2)

District 20

Sen. Dan Swecker (R)
Rep. Richard C DeBolt (R-1)
Rep. Gary C Alexander (R-2)

District 21

Sen. Paull H Shin (D)
Rep. Mike M Cooper (D-1)
Rep. Brian Sullivan (D-2)

District 22

Sen. Karen Fraser (D)
Rep. Sandra J S Romero (D-1)
Rep. Sam Hunt (D-2)

District 23

Sen. Betti L Sheldon (D)
Rep. Phil Phillips Rockefeller (D-1)
Rep. Beverly A Woods (R-2)

District 24

Sen. James E Hargrove (D)
Rep. Jim G Buck (R-1)
Rep. Lynn E Kessler (D-2)

District 25

Sen. Jim Kastama (D)
Rep. Sarah Casada (R-1)
Rep. Dave Morell (R-2)

District 26

Sen. Bob Oke (R)
Rep. Patricia T Lantz (D-1)
Rep. Brock Jackley (D-2)

District 27

Sen. Debbie E Regala (D)
Rep. Ruth L Fisher (D-1)
Rep. Jeannie Darneille (D-2)

District 28

Sen. Shirley J Winsley (R)
Rep. Gigi G Talcott (R-1)
Rep. Mike J Carrell (R-2)

District 29

Sen. Rosa Franklin (D)
Rep. Steve E Conway (D-1)
Rep. Steve Kirby (D-2)

District 30

Sen. Tracey Eide (D)
Rep. Mark A Miloscia (D-1)
Rep. Maryann Mitchell (R-2)

Legislative Members by District

District 29

Sen. Paul Roach (R)
Rep. Dan Roach (R-1)
Rep. Christopher A Hurst (D-2)

District 32

Sen. Darlene Fairley (D)
Rep. Maralyn Chase (D-1)
Rep. Ruth L Kagi (D-2)

District 33

Sen. Karen K Keiser (D)
Rep. Shay K Schual-Berke (D-1)
Rep. Dave Upthegrove (D-2)

District 34

Sen. Erik E Poulsen (D)
Rep. Toni Lysen (D-1)
Rep. Joe McDermott (D-2)

District 35

Sen. Tim Sheldon (D)
Rep. Kathy M Haigh (D-1)
Rep. William "Ike" A Eickmeyer (D-2)

District 36

Sen. Jeanne Kohl-Welles (D)
Rep. Helen E Sommers (D-1)
Rep. Mary Lou Dickerson (D-2)

District 37

Sen. Adam Kline (D)
Rep. Sharon Tomiko Santos (D-1)
Rep. Kip Y Tokuda (D-2)

District 38

Sen. Jeralita "Jeri" Costa (D)
Rep. Aaron G Reardon (D-1)
Rep. Jean Berkey (D-2)

District 39

Sen. Val Stevens (R)
Rep. Hans M Dunshee (D-1)
Rep. Kirk Pearson (R-2)

District 40

Sen. Harriet A Spanel (D)
Rep. Dave S Quall (D-1)
Rep. Jeff R Morris (D-2)

District 41

Sen. Jim Horn (R)
Rep. Fred Jarrett (R-1)
Rep. Ida J Ballasiotes (R-2)

District 42

Sen. Georgia Gardner (D)
Rep. Doug J Ericksen (R-1)
Rep. Kelli J Linville (D-2)

District 43

Sen. Pat Thibaudeau (D)
Rep. Ed B Murray (D-1)
Rep. Frank V Chopp (D-2)

District 44

Sen. Jeanine H Long (R)
Rep. Dave A Schmidt (R-1)
Rep. John R Lovick (D-2)

District 45

Sen. Bill Finkbeiner (R)
Rep. Toby Nixon (R-1)
Rep. Laura E Ruderman (D-2)

District 46

Sen. Ken Jacobsen (D)
Rep. Jim L McIntire (D-1)
Rep. Phyllis G Kenney (D-2)

District 47

Sen. Stephen L Johnson (R)
Rep. Geoff Simpson (D-1)
Rep. Jack D Cairnes (R-2)

District 48

Sen. Dan McDonald (R)
Rep. Luke E Esser (R-1)
Rep. Steve E Van Luven (R-2)

District 49

Sen. Don Carlson (R)
Rep. Bill Fromhold (D-1)
Rep. Val M Ogden (D-2)

Standing Committee Assignments

House Agriculture & Ecology

Kelli Linville, *Chair*
Sam Hunt, *V. Chair*
Bruce Chandler
Mike Cooper
Jerome Delvin
Hans Dunshee
Bill Grant
Janea Holmquist
Steve Kirby
Dave Quall
Dan Roach
Mark G. Schoesler
Bob Sump

House Appropriations

Helen Sommers, *Chair*
Mark Doumit, *V. Chair*
Bill Fromhold, *V. Chair*
Gary Alexander
Marc Boldt
Jim Buck
James Clements
Eileen Cody
Don Cox
Hans Dunshee
Bill Grant
Ruth Kagi
Phyllis Gutierrez Kenney
Lynn Kessler
Kelli Linville
Barbara Lisk
Dave Mastin
Jim McIntire
Kirk Pearson
Cheryl Pflug
Laura Ruderman
Shay Schual-Berke
Barry Sehlin
Gig Talcott
Kip Tokuda

Senate Agriculture & International Trade

Marilyn Rassmussen,
Chair
Paull Shin, *V. Chair*
Linda Evans Parlette
Larry Sheahan
Sid Snyder
Harriet Spanel
Dan Swecker

See Senate Ways & Means

House Capital Budget

Edward Murray, *Chair*
Jim McIntire, *V. Chair*
Gary Alexander
Mike Armstrong
Roger Bush
Sarah Cascada
Maralyn Chase
Luke Esser
Shirley Hankins
Sam Hunt
Patricia Lantz
Al O'Brien
Val Ogden
Aaron Reardon
Mark G. Schoesler
Velma Voloria
Beverly Woods

House Children & Family Services

Kip Tokuda, *Chair*
Ruth Kagi, *V. Chair*
Marc Boldt
Jeannie Darneille
Mary Lou Dickerson
Mark Miloscia
Dave Morell
Toby Nixon
Ed Orcutt

House Commerce & Labor

Steve Conway, *Chair*
Alex Wood, *V. Chair*
Bruce Chandler
James Clements
Phyllis Kenney
Toni Lysen
Cathy McMorris

see Senate Ways & Means

see Senate Human Services & Corrections

see Senate Labor, Commerce & Financial Institutions

Standing Committee Assignments

House Community

Security, Select

Christopher Hurst, *Chair*
Geoff Simpson, *V. Chair*
Ida Ballasiotes
Kelly Barlean
Brad Benson
Jim Buck
Tom Campbell
Kathy Haigh
Brock Jacklev
Lynn Kessler
Barbara Lisk
Jeff Morris
Al O'Brien
Dave Schmidt
Shay Schual-Berke

see House Technology, Telecommunications & Energy; Trade & Economic Development

House Criminal Justice & Corrections

Al O'Brien, *Chair*
John Lovick, *V. Chair*
John Ahern
Ida Ballasiotes
Ruth Kagi
Steve Kirby
Dave Morell

see Senate Judiciary

Senate Economic Development & Telecommunications

Tim Sheldon, *Chair*
Betti Sheldon, *V. Chair*
Lisa Brown
Darlene Fairley
Bill Finkbeiner
Mary Margaret Haugen
Bob McCaslin
Dino Rossi
Val Stevens

see Senate Human Services & Corrections; Judiciary

House Education

Dave Quall, *Chair*
Kathy Haigh, *V. Chair*
Glenn Anderson
Don Cox
Joe McDermott
Phil Rockefeller
Sharon Tomiko Santos
Lynn Schindler
Dave Schmidt
Gigi Talcott
Dave Upthegrove

House Finance

Jeff Gombosky, *Chair*
Jean Berkey, *V. Chair*
Jack Cairnes
Steve Conway
Jeff Morris
Toby Nixon
Ed Orcutt
Dan Roach
Sharon Tomiko Santos
Steve Van Luven
Velma Veloria

see House Natural Resources; Technology, Telecommunications & Energy

Senate Education

Rosemary McAuliffe,
Chair
Tracey Eide, *V. Chair*
Don Carlson
Bill Finkbeiner
Mike Hewitt
Harold Hochstatter
Stephen Johnson
Jim Kastama
Jeanne Kohl-Welles
Margarita Prentice
Marilyn Rasmussen
Debbie Regala
Joseph Zarelli

see Senate Labor, Commerce & Financial Institutions

Senate Environment, Energy & Water

Karen Fraser, *Chair*
Debbie Regala, *V. Chair*
Tracey Eide
Patricia Hale
Jim Honeyford
Ken Jacobsen
Karen Keiser
Dan McDonald
Bob Morton

Standing Committee Assignments

House Financial Institutions & Insurance

Mike Cooper, *Chair*
Jim McIntire, *V. Chair*
Kelly Barlean
Brad Benson
Jack Cairnes
Brian Hatfield
Tom Mielke
Mark Miloscia
Dan Roach
Sharon Tomiko Santos
Geoff Simpson

House Health Care

Eileen Cody, *Co-Chair*
Shay Schual-Berke, *V. Chair*
Gary Alexander
Ida Ballasiotes
Brad Benson
Tom Campbell
Steve Conway
Jeannie Darneille
Jeanne Edwards
Laura Ruderman
Mary Skinner

House Higher Education

Phyllis Gutierrez Kenney, *Chair*
Bill Fromhold, *V. Chair*
Maralyn Chase
Don Cox
Jim Dunn
Jeff Gombosky
Fred Jarrett
Patricia Lantz
Mary Skinner

see Senate Labor, Commerce & Financial Institutions

Senate Health & Long-Term Care

Pat Thibaudeau, *Chair*
Rosa Franklin, *V. Chair*
Jeri Costa
Alex Deccio
Karen Fraser
Linda Evans Parlette
Shirley Winsley

Senate Higher Education

Jeanne Kohl-Welles, *Chair*
Paull Shin, *V. Chair*
Don Carlson
Jim Horn
Ken Jacobsen
Rosemary McAuliffe
Linda Evans Parlette
Larry Sheahan
Betti Sheldon

see House Criminal Justice & Corrections; Children & Family Services

House Judiciary

Patricia Lantz, *Chair*
Christopher Hurst, *V. Chair*
Marc Boldt
Mike Carrell
Mary Lou Dickerson
Luke Esser
Fred Jarrett
John Lovick
Toni Lysen

House Juvenile Justice

Mary Lou Dickerson, *Chair*
Jeannie Darneille, *V. Chair*
Mike Armstrong
Mike Carrell
Jerome Delvin
William "Ike" Eickmeyer
Kip Tokuda

Senate Human Services & Corrections

James Hargrove, *Chair*
Jeri Costa, *V. Chair*
Don Carlson
Rosa Franklin
Mike Hewitt
Jim Kastama
Jeanne Kohl-Welles
Jeanine Long
Val Stevens

Senate Judiciary

Adam Kline, *Chair*
Jim Kastama, *V. Chair*
Jeri Costa
James Hargrove
Stephen Johnson
Jeanine Long
Bob McCaslin
Erik Poulsen
Pam Roach
Pat Thibaudeau
Joseph Zarelli

see Senate Human Services & Corrections; Judiciary

Standing Committee Assignments

**House Commerce &
Finance, Financial
Institutions & Insurance**

**Senate Labor, Commerce
& Financial Institutions**

Margarita Prentice, *Chair*
Karen Keiser, *V. Chair*
Don Benton
Alex Deccio
Darlene Fairley
Rosa Franklin
Georgia Gardner
Harold Hochstatter
Jim Honeyford
Marilyn Rasmussen
Debbie Regala
James West
Shirley Winsley

**House Local
Government & Housing**

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Jean Berkey
Larry Crouse
Richard DeBolt
Jim Gunn
Brian Hatfield
Steve Kirby
Thomas M. Mielke
Joyce Mulliken
Brian Sullivan

**see Senate State & Local
Government**

**Senate Natural
Resources, Parks &
Shorelines**

Ken Jacobsen, *Chair*
Erik Poulsen, *V. Chair*
James Hargrove
Dan McDonald
Bob Morton
Bob Oke
Sid Snyder
Harriet Spanel
Val Stevens

House Natural Resources

Mark Doumit, *Chair*
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Jim Buck
William "Ike" Eickmeyer
Doug Ericksen
Brock Jackley
Joe McDermott
Ed Orcutt
Kirk Pearson
Bob Sump
Dave Upthegrove

House Rules

Frank Chopp, *Chair*
Clyde Ballard
Jim Buck
Roger Bush
Richard Debolt
Hans Dunshee
William "Ike" Eickmeyer
Bill Grant
Kathy Haigh
Shirley Hankins
Brian Hatfield
Christopher Hurst
Lynn Kessler
Steve Kirby
Barbara Lisk
Dave Mastin
Joyce Mulliken
Val Ogden
Aaron Reardon
Sharon Tomiko Santos
Beverly Woods

House State Government

Sandra Romero, *Chair*
Mark Miloscia, *V. Chair*
Cathy McMorris
Joe McDermott
Lynn Schindler
Dave Schmidt
Dave Upthegrove

Senate Rules

Lt. Governor Brad Owen,
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Alex Deccio
Tracey Eide
Patricia Hale
Harold Hochstatter
Jim Horn
Stephen Johnson
Jim Kastama
Erik Poulsen
Larry Sheahan
Betti Sheldon
Paull Shin
Sid Snyder
Harriet Spanel
James West

**Senate State & Local
Government**

Georgia Gardner, *Chair*
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Mary Margaret Haugen
Jim Horn
Karen Keiser
Adam Kline
Bob McCaslin
Pam Roach
Tim Sheldon
Dan Swecker

Standing Committee Assignments

House Technology, Telecommunications & Energy

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Jean Berkey
Roger Bush
Sarah Casada
Larry Crouse
Richard DeBolt
Jerome Delvin
Luke Esser
Sam Hunt
Kelli Linville
Toni Lysen
Toby Nixon
Cheryl Pflug
Aaron Reardon
Sandra Romero
Brian Sullivan
Alex Wood

House Trade & Economic Development

Velma Voloria, *Chair*
William "Ike" Eickmeyer,
V. Chair
John Ahern
Maralyn Chase
Jim Dunn
Bill Fromhold
Jeff Gombosky
Joyce Mulliken
Steve Van Luven

see Senate Energy, Technology & Telecommunications

see Senate Agriculture & International Trade; Economic Development & Telecommunications

House Transportation

Ruth Fisher, *Chair*
Mike Cooper, *V. Chair*
John Lovick, *V. Chair*
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Mike Armstrong
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Doug Ericksen
Kathy Haigh
Shirley Hankins
Brian Hatfield
Janea Holmquist
Brock Jackley
Fred Jarrett
Thomas M. Mielke
Maryann Mitchell
Dave Morell
Edward Murray
Val Ogden
Aaron Reardon
Phil Rockefeller
Sandra Romero
Lynn Schindler
Geoff Simpson
Mary Skinner
Brian Sullivan
Alex Wood
Beverly Woods

Senate Transportation

Mary Margaret Haugen,
Chair
Georgia Gardner, *V. Chair*
Don Benton
Tracey Eide
Bill Finkbeiner
Jim Horn
Ken Jacobsen
Stephen Johnson
Jim Kastama
Karen Keiser
Rosemary McAuliffe
Dan McDonald
Bob Oke
Margarita Prentice
Tim Sheldon
Paul Shin
Dan Swecker

see

**House Appropriations,
Capital Budget, Finance**

Senate Ways & Means

Lisa Brown, *Chair*

Debbie Regala, *V. Chair*

Darlene Fairley, *V. Chair*
(*Capital Budget*)

Karen Fraser

Mike Hewitt

Jim Honeyford

Adam Kline

Jeanne Kohl-Welles

Jeanine Long

Linda Evans Parlette

Erik Poulsen

Marilyn Rasmussen

Pam Roach

Dino Rossi

Larry Sheahan

Betti Sheldon

Sid Snyder

Harriet Spanel

Pat Thibaudeau

Shirley Winsley

Joseph Zarelli