2006 Final Legislative Report

Fifty-ninth Washington State Legislature
2006 Regular Session

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

Senate Committee Services
310 16th Avenue SW
PO Box 40466
Olympia, WA 98504-0466
(360) 786-7400

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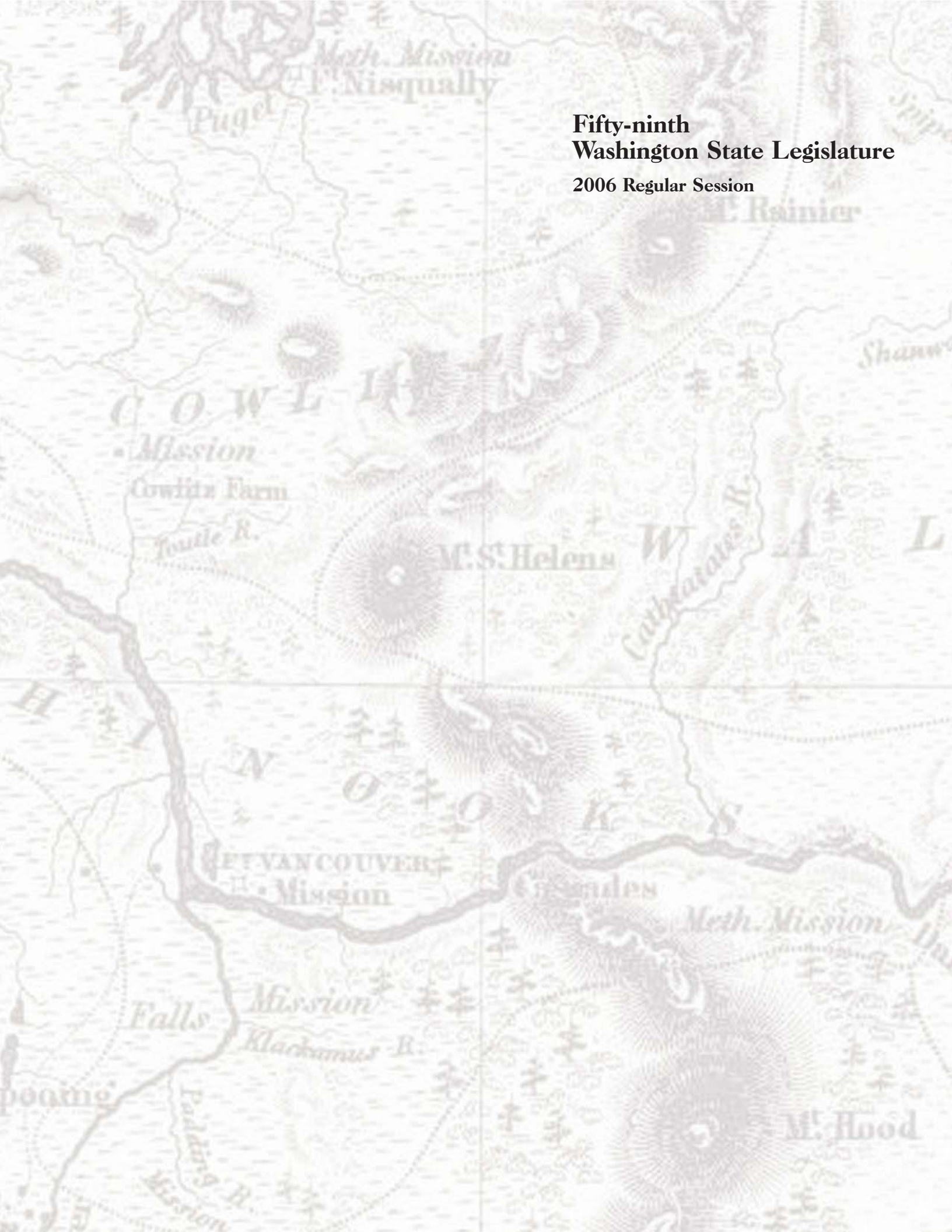
Cover design:

The United States Exploratory Expedition was funded by Congress in 1836 with the primary purpose of providing accurate naval maps for the whaling industry. The expedition set out in 1838 and returned four years later after completely encircling the globe and visiting most every non-civilized coastal area in the world, including the Pacific Northwest. A large number of currently used Puget Sound names were provided by this expedition, including Commencement Bay and Elliott Bay.

The expedition was commanded by Charles Wilkes, a renowned surveyor of the time who lacked leadership experience and was thought by many of his crew to be cruel and arrogant. Wilkes was promptly court martialed upon the expedition's return although acquitted of most charges. Wilke's expedition also returned to a different administration than that which they set off to. The new administration did not share the initial interest and enthusiasm for the project and for these reasons the expedition did not capture the public imagination and has largely been forgotten.

The specimens and artifacts brought back by expedition scientists (including naturalists, botanists, a mineralogist, taxidermists, artists and a philologist) ultimately formed the foundation for the Smithsonian Institution collection. The expedition is also credited with determining Antartica to be a continent.



Fifty-ninth Washington State Legislature

2006 Regular Session

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Statistical Summary

2006 Regular Session of the 59th Legislature

Bills Before Legislature	Introduced	Passed Legislature	Vetoed	Partially Vetoed	Enacted
2006 Regular Session (January 9 -March 8)					
House	993	210	1	11	209
Senate	772	166	5	6	161
TOTALS	**1,765**	**376**	**6**	**17**	**370**

Initiatives, Joint Memorials, Joint Resolutions and Concurrent Resolutions Before Legislature	Introduced	Filed with the Secretary of State
2006 Regular Session (January 9 -March 8)		
House	44	9
Senate	36	6
TOTALS	**80**	**15**
Initiatives	**3**	**2**

Gubernatorial Appointments	Referred	Confirmed
2006 Regular Session (January 9 -March 8)	97	80

Section I
Legislation Passed

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Numerical List

I 900
C 1 L 06

Performance Audits of Government Initiative.

By People of the State of Washington.

Background: During the 2005 session, the Legislature addressed government accountability in legislation that provided roles for the State Auditor, contracted performance audits, the Joint Legislative Audit and Review Committee (JLARC), and a newly created board.

In Engrossed Substitute House Bill 1064, 2005, the legislature created a Citizen Oversight Board to improve efficiency, effectiveness, and accountability in state government. The board and the State Auditor were to collaborate with JLARC regarding performance audits of state government. The board's purpose was to establish performance audit criteria consistent with criteria and standards used by JLARC when they conduct audits. Using these criteria, the State Auditor was to contract for a statewide performance review as a preliminary step to preparing a draft performance audit plan. The board also had collaborative responsibilities in preparing and issuing the final audit reports.

Summary: Initiative 900 requires that the State Auditor perform, or contract for the performance of, audits of state and local government agencies, accounts, and programs. The auditor also has authority to perform audits of both the legislative and judicial branches of government. The audits are to include a review and analysis of the economy, efficiency, and effectiveness of governmental policies, management, fiscal affairs, and operations. The audit results and the auditor's recommendations must be submitted to the appropriate legislative body and the public. The legislative body is required to hold a public hearing on the audit's results.

Effective: December 8, 2005

I 901
C 2 L 06

Clean Indoor Air Act Amendment.

By People of the State of Washington.

Background: The Washington Clean Indoor Air Act (Act), originally enacted in 1985, prohibits smoking in a public place, except within designated smoking areas. "Public place" is that portion of any building or vehicle used by or open to the public, regardless of who owns it and whether or not a fee is charged for entry. Under current law, the owner of the designated smoking area in a public place must use existing physical barriers and ventilation systems to minimize smoke entering any nonsmoking areas that are located in the same premises. Currently, bars, restaurants, taverns, bowling alleys, and tobacco shops may be designated smoking areas in their entirety. A person who intentionally violates the Act by smoking in a public place is subject to a $100 fine.

The Washington Industrial Safety and Health Act (WISHA) regulates tobacco smoke in office settings. Under WISHA regulations, smoking is prohibited in all office work sites except in specifically designated smoking rooms. Company cafeterias, meeting rooms, and other ancillary office work sites must be smoke free.

Summary: No person may smoke in a public place or in any place of employment. Initiative 901 (I-901) expands the current definition of public place to include bars, taverns, bowling alleys, skating rinks, casinos, schools, reception areas, and at least seventy-five percent of the sleeping quarters within a hotel or motel that are rented to guests. The definition of public place also includes a private residence or home-based business when that residence or business is used to provide licensed child care, foster care, adult care, or other similar social service care on the premises. Designated smoking areas in public places or places of employment will no longer exist.

Smoking is not allowed within a "presumptively reasonable minimum distance" from entrances, exits, windows that open, and ventilation intakes that serve an enclosed area where smoking is prohibited. I-901 defines a "presumptively reasonable distance" as twenty-five feet. However, the initiative provides that any person who is smoking while just passing by or through a public place while on a public sidewalk or public right of way does not intentionally violate the prohibition.

I-901 directs local health departments to enforce the prohibitions. Currently, local fire departments have enforcement authority.

Any person who owns or controls a public place or place of employment, may seek to rebut the presumption that twenty-five feet is a reasonable minimum distance by applying to the director of the local health department or health district. The standard that must be met to rebut the presumption is clear and convincing evidence.

Anyone seeking to rebut the distance presumption must prove that given the unique circumstances presented by the location of entrances, exits, windows that open, ventilation intakes, or other factors, smoke will not infiltrate or reach or enter into such public place or place of employment and, therefore, the public health and safety of the occupants will be protected by a lesser distance. The initiative does not establish an absolute minimum distance.

Effective: December 8, 2005

ESHB 1010
C 195 L 06

Concerning electric utility planning.

By House Committee on Technology, Energy & Communications (originally sponsored by Representatives Morris, Hudgins, Morrell, Linville, B. Sullivan, McCoy and Chase).

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

Background: Many energy utilities develop long-term strategies, called "integrated resource plans" (IRPs) or "least cost plans" to select reliable and cost-effective resources for the planning horizon. The process typically involves public participation.

The Washington Utilities and Transportation Commission (UTC) requires each regulated energy utility to develop IRPs which describe the mix of supply resources and conservation that will meet the utility's current and future needs at the lowest reasonable cost to the utility and its ratepayers. The long-term forecast period under an IRP must be at least 10 years. At least two municipal utilities and one public utility district in the state use integrated resource plans: Seattle Public Utilities, Tacoma Public Utilities, and Snohomish Public Utility District.

Summary: All investor-owned and consumer-owned electric utilities in the state, with more than 25,000 customers, must develop detailed integrated resource plans (IRPs) by September 1, 2008. All other utilities in the state, including those that essentially receive all their power from the Bonneville Power Administration, must file either an IRP or a less detailed "resource plan" (RP) by the same date. The governing body of a consumer-owned utility must encourage public participation when developing either plan.

Content of Integrated Resource Plans. An IRP must describe the mix of generating resources and conservation and efficiency resources that will meet current and projected needs at the lowest reasonable cost to the utility and its ratepayers. The plan must contain a number of elements, including: (1) demand forecasts for at least the next 10 years; (2) assessments of commercially available conservation and efficiency resources; (3) assessments of commercially available utility scale renewable and nonrenewable generating technologies; (4) comparative evaluation of renewable and nonrenewable generating resources; (5) integration of the demand forecasts and resource evaluations into a long-range assessment describing the mix of supply side generating resources and conservation and efficiency resource; and (6) a short-term plan identifying the specific actions to be taken by the utility consistent with long-range integrated resource plan.

Content of Resource Plans. An RP must: (1) estimate loads for the next five and 10 years; (2) enumerate the resources that will be maintained and/or acquired to serve those loads; and (3) explain, if the resources chosen are not renewable resources or conservation and efficiency resources, why such a decision was made. In developing RPs, consumer-owned utilities are encouraged to use information provided to and by other state, regional, national, and international entities. Consumer-owned utilities are also encouraged to use determinations required under the federal Energy Policy Act of 2005. An RP must be updated at least every two years.

Reporting Requirements. Investor-owned utilities must submit their plans to the UTC. After the initial reporting date for IRPs, updated IRPs must be produced every four years and progress reports every two years. Consumer-owned utilities must submit their plans to the Department of Community, Trade and Economic Development (CTED) every two years after the initial reporting date of September 1, 2008. A statewide summary of all plans must be prepared by CTED, which must submit the summary as part of the biennial state energy report.

Votes on Final Passage:

House	96	1	
Senate	47	0	(Senate amended)
House			(House refused to concur)
Senate			(Senate receded)
Senate	46	0	(Senate amended)
House	98	0	(House concurred)

Effective: June 6, 2006.

ESHB 1020
C 196 L 06

Regarding electrical transmission.

By House Committee on Technology, Energy & Communications (originally sponsored by Representatives Morris and B. Sullivan).

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

Background: Electrical Transmission. The region's electrical transmission grid is an interconnected network of transmission lines that transfers bulk power between points of supply and demand. The main grid consists of 500 kilovolt, 345 kilovolt, and 230 kilovolt lines. These lines are usually mounted on large metal towers that range in height from 70 to 170 feet, depending on the size, location, and design of the tower. The towers typically require rights-of-way that are 90 to 165 feet wide.

Energy Policy Act of 2005. The national Energy Policy Act of 2005 (Act) was signed into law August 2005. Section 1221 of the Act authorizes the Secretary of the U.S. Department of Energy (Secretary) to conduct a

study within one year of passage, and triennially thereafter, of electric transmission congestion. The Secretary will issue a report based on the study, which may designate any geographic area experiencing electric energy transmission capacity constraints or congestion that adversely affects consumers as a national interest energy electric transmission corridor.

In determining whether to designate a particular area as a national interest electric transmission corridor, the Secretary may consider the following:

- whether the economic vitality and development of the corridor, or the end markets served by the corridor, may be constrained by lack of adequate or reasonably priced electricity;
- whether economic growth in the corridor, or the end markets served by the corridor, may be jeopardized by reliance on limited sources of energy, and a diversification of supply is warranted;
- whether the energy independence of the United States would be served by the designation;
- whether the designation would be in the interest of national energy policy; and whether the designation would enhance national defense and homeland security.

FERC's Backstop Authority. The Act authorizes the Federal Energy Regulatory Commission to issue permits for construction or modification of electric transmission in a national interest transmission corridor if:

- a state does not have siting authority;
- a state does not consider interstate benefits;
- a state has withheld approval for more than one year after the filing of an application or one year after the designation as a national interest electric transmission corridor; or
- a state has conditioned its approval in such a manner that there will be no significant reduction of transmission congestion.

EFSEC Licensing. The Energy Facility Site Evaluation Council (EFSEC) was created in 1970 to provide one-stop licensing for large energy projects. The EFSEC's membership includes mandatory representation from five state agencies and discretionary representation from four additional state agencies. The EFSEC's membership may include representatives from the particular city, county, or port district where potential projects may be located. The EFSEC's jurisdiction includes the siting of large intrastate natural gas and petroleum pipelines, electric power plants above 350 megawatts, new oil refineries, large expansions of existing facilities, and underground natural gas storage fields. For electric power plants, the EFSEC's jurisdiction extends to those associated facilities that include new transmission lines that operate in excess of 200 kilovolts and are necessary to connect the plant to the Northwest power grid.

The EFSEC siting process generally involves six steps: (1) a potential site study followed by an application; (2) a State Environmental Policy Act review; (3) a review for consistency with applicable local land use laws and plans; (4) a formal adjudication on all issues related to the project; (5) certain air and water pollution discharge permitting reviews as delegated by the U.S. Environmental Protection Agency; and (6) a recommendation to the Governor who then decides whether to accept, reject, or remand the application. A certification agreement approved by the Governor preempts any other state or local regulation concerning the location, construction, and operational conditions of an energy facility. Under the EFSEC process, the applicant is required to pay the costs of the EFSEC in processing an application.

County and City Growth Management. Under the Growth Management Act, certain counties and cities must develop comprehensive land use plans outlining the coordinated land use policy of the county or city. The comprehensive land use planning process includes adopting development regulations, such as zoning ordinances, critical areas ordinances, and binding site plan ordinances.

Summary: EFSEC Jurisdiction. The EFSEC jurisdiction is extended to include new electrical transmission lines that operate in excess of 115 kilovolts that are necessary to connect a power plant to the region's power grid and electrical transmission facilities in excess of 115 kilovolts in national interest electric transmission corridors. When siting transmission facilities, EFSEC must not consider the fuel source of the electricity to be carried on the facilities.

After "The EFSEC is designated as the state authority for purposes of siting transmission facilities under the national Energy Policy Act of 2005 and any accompanying regulations that may be adopted by the U.S. Secretary of Energy.", and "The EFSEC's authority regarding transmission facilities is limited to those transmission facilities that are the subject of the Energy Policy Act of 2005. When siting transmission facilities related to Energy Policy Act of 2005, the EFSEC may consider interstate benefits to be achieved by the proposed construction or modification of the facilities in the state." In addition, the EFSEC must convey to the U.S. Secretary of Energy the views of interested parties in the state concerning the appropriate limits on federal authority over transmission siting in the state.

Changes to the EFSEC Process. Various updates are made to the EFSEC process, including the consideration of local land use plans and ordinances adopted under the Growth Management Act. Also, reimbursements are authorized for the time a local government's member or designee services on the EFSEC in reviewing a siting application.

Votes on Final Passage:

House	93	2	
Senate	46	0	(Senate amended)
House	98	0	
Senate	48	0	(Senate amended)
House	96	0	(House concurred)

Effective: June 7, 2006

EHB 1069
C 197 L 06

Requiring performance audits for tax preferences.

By Representatives McIntire, Conway, Priest, Upthegrove, Kilmer, Moeller, Dickerson, Williams, Schual-Berke, Nixon, Springer, Sells, P. Sullivan, Green, Lovick, Kenney, Haigh, Wallace, Kagi, Simpson, Linville, Morris, Wood, Hunter, Lantz, Hudgins, Ericks, Darneille, Clibborn, Sommers, Morrell, Takko, O'Brien, Appleton, Hunt, Santos, Ormsby, Murray and Chase.

House Committee on Finance
Senate Committee on Ways & Means

Background: Tax exemptions, exclusions, deductions, credits, deferrals, and preferential rates are known as tax preferences. The Department of Revenue (Department) publishes a report on tax preferences every four years. The report covers more than 400 tax preferences and describes each preference, the year of enactment, the purpose of the preference (or the Department's best estimate of the purpose), an indication of primary beneficiaries, and estimated fiscal impact.

The Washington Sunset Act of 1977 establishes a procedure for reviewing and terminating state agencies or programs. If the Legislature sets a termination date for an agency or program, the Joint Legislative Audit and Review Committee (JLARC) conducts a review of the agency or program and makes recommendations to the Legislature. The Legislature may allow the agency or program to terminate as scheduled, may allow the agency or program to continue with another review scheduled for a later date, or may allow the agency or program to continue without scheduling further review. The Sunset Act does not apply to tax preferences.

In 1982 the Legislature enacted legislation that began a similar sunset procedure for tax preferences. The legislation directed the Joint Select Committee on Sunset Review to draft a bill that would provide a schedule for terminating all tax preferences. This legislation also created a process for reviewing each tax preference before its scheduled termination. The review was to be performed by the Legislative Budget Committee, a predecessor of the JLARC. The Joint Select Committee on Sunset Review drafted the bill creating a termination schedule for tax preferences. This bill was introduced during the 1983 session, but was not enacted. The process created in 1982 for sunset review of tax preferences remains in statute. But in the absence of a statutory termination schedule, the process has not been implemented.

Summary: The Legislature recognizes that tax preferences are intended to be in the public interest. The Legislature finds that periodic review of tax preferences is needed to determine if their continued existence will serve the public interest.

The Citizen Commission for Performance Measurement of Tax Preferences (Commission) is created, with two nonvoting members and five voting members. The state auditor and the chair of the Joint Legislative Audit and Review Committee are nonvoting members. The chair of each of the two largest caucuses of the Senate and the two largest caucuses of the House of Representatives must each appoint a voting member. None of these appointees may be members of the Legislature. The Governor must select the seventh member.

The Commission must develop a schedule for review of tax preferences at least once every 10 years. The Commission is to schedule all tax preferences for review, except those required by constitutional law, those the Commission determines are a critical part of the structure of the tax system, the small business and occupation tax credit, sales and use exemptions for food and prescription drugs, property tax relief for retired persons, property tax valuations based on current use, and tax exemptions for machinery and equipment for manufacturing, research and development, or testing. An expedited review may be provided for tax preferences with an estimated biennial fiscal impact of $10 million or less. The Commission must provide a process for effective citizen input during its deliberations.

The JLARC must review tax preferences according to the10-year schedule developed by the Commission. The JLARC must consider, but is not limited to, the following factors in the review:

1) the classes of individuals, types of organizations, or types of industries whose state tax liabilities are directly affected by the tax preference;
2) public policy objectives that might provide a justification for the tax preference, including the extent to which the preference encourages business growth or relocation into this state, promotes growth or retention of high wage jobs, or helps stabilize communities;
3) evidence that the existence of the tax preference has contributed to the achievement of any of the public policy objectives;
4) the extent to which continuation of the tax preference might contribute to any of the public policy objectives;
5) the extent to which terminating the tax preference may have negative effects on beneficiaries of the tax preference, and the extent to which resulting

higher taxes may have negative effects on employment and the economy;

6) the extent to which the tax preference may provide unintended benefits to an individual, organization, or industry;
7) the feasibility of modifying the preference to provide for adjustment or recapture of the tax benefits of the preference if the objectives are not fulfilled;
8) fiscal impacts of the tax preference, including past impacts and expected future impacts if it is continued;
9) the extent to which termination of the tax preference would affect the distribution of liability for payment of state taxes; and
10) consideration of similar tax preferences adopted in other states, and potential public policy benefits that might be gained by incorporating corresponding provisions in Washington.

For each tax preference, the JLARC must provide a recommendation as to whether the tax preference should be continued without modification, modified, scheduled for sunset review at a future date, or terminated immediately. The JLARC may recommend accountability standards for the future review of a tax preference.

The JLARC must submit a report to the Commission by August 30 of each year. The Commission may review and comment on the JLARC report. The JLARC must prepare a final report that includes any comments of the Commission and submit the report to the House Finance and Senate Ways & Means Committees by December 30. The legislative committees are to hold a joint hearing on the report.

The first report of the JLARC is due by August 30, 2006. The first report of the Commission to the Legislature is due by December 30, 2006. A special report on a shorter time line is required for tax preferences that expire before January 1, 2007. The JLARC must submit this special report to the Legislature by January 12, 2006.

Staff support to the Commission is provided by the JLARC, and the Department of Revenue and Employment Security Department are directed to provide information needed by the Commission or the JLARC.

Statutes relating to the unimplemented 1982 tax preference review are repealed.

Votes on Final Passage:

House 63 32
House 61 34
Senate 33 15

Effective: June 7, 2006

ESHB 1080
C 228 L 06

Protecting dependent persons.

By House Committee on Criminal Justice & Corrections (originally sponsored by Representatives McDonald, O'Brien and Morrell).

House Committee on Criminal Justice & Corrections
Senate Committee on Judiciary

Background: I. Criminal Mistreatment. In general, a person commits criminal mistreatment if he or she:

- is the parent of a child, is a person entrusted with the physical custody of a child or dependent person, or is employed to provide a child or dependent person with the basic necessities of life; and
- withholds the basic necessities of life from the child or dependent person.

The penalty for criminal mistreatment depends on the intent of the perpetrator and the harm caused to the victim. For example, it is criminal mistreatment in the first degree if the perpetrator recklessly causes great bodily harm to the child or dependent person. Criminal mistreatment in the first degree is a class B felony with a seriousness level of V.

Additionally, it is criminal mistreatment in the second degree if the person recklessly creates an imminent and substantial risk of death or great bodily harm or recklessly causes substantial bodily harm. Criminal mistreatment in the second degree is a class C felony with a seriousness level of III.

II. Abandonment. In general, a person commits abandonment of a dependent person if he or she:

- is the parent of a child, is a person entrusted with the physical custody of a child or dependent person, or is employed to provide a child or dependent person with the basic necessities of life; and
- abandons the dependent person.

As with criminal mistreatment, the penalty for abandonment of a dependent person depends on the intent of the perpetrator and the harm caused to the victim. For example, it is abandonment of a dependent person in the first degree if the perpetrator recklessly causes great bodily harm. Abandonment of a dependent person in the first degree is a class B felony with a seriousness level of V.

Additionally, it is abandonment of a dependent person in the second degree if the perpetrator recklessly creates an imminent and substantial risk of death or great bodily harm or recklessly causes substantial bodily harm. Abandonment of a dependent person in the second degree is a class C felony with a seriousness level of III.

Summary: I. Criminal Mistreatment. The circumstances under which a person can be guilty of criminal mistreatment are expanded to include when a person who has assumed the responsibility to provide a depen-

dent person the basic necessities of life withholds the basic necessities of life. However, Good Samaritans and government agencies that regularly provide care or assistance to dependant persons are provided protection from criminal liability for negligent acts that constitute criminal mistreatment in the third or fourth degree.

A "Good Samaritan" is defined as any individual or group of individuals who are not related to the dependent person; who voluntarily provides assistance or services of any type to the dependent person; who is not paid, given gifts, or made a beneficiary of any assets valued at $500 or more, for any reason, by the dependent person, the dependent person's family, or the dependent person's estate; and who does not commit or attempt to commit any other crime against the dependent person or the dependent person's estate.

The seriousness level for criminal mistreatment in the first degree is increased from V to IX. The seriousness level for criminal mistreatment in the second degree is increased from III to V.

II. Abandonment. The circumstances under which a person can be guilty of abandonment of a dependent person are expanded to include when a person who assumed the responsibility to provide a dependent person the basic necessities of life abandons the dependent person.

The seriousness level for abandonment of a dependent person in the first degree is increased from V to IX. The seriousness level for abandonment of a dependent person in the second degree is increased from III to V.

Votes on Final Passage:

House	97	0	
House	96	0	
Senate	42	0	(Senate amended)
House	97	0	(House concurred)

Effective: June 7, 2006

SHB 1107
C 269 L 06

Providing for early intervention services for children with disabilities.

By House Committee on Appropriations (originally sponsored by Representatives Dickerson, Talcott, Linville, Tom, Priest, Darneille, Pettigrew, Shabro, Jarrett, McCoy, Roberts, Kagi, Clements, Dunn, Hunter, Quall, Haler, Hinkle, Cody, Walsh, Ormsby, Kilmer, Simpson, Kessler, Morrell, Williams, O'Brien, Chase, Hunt, Schual-Berke, Conway, Santos, Haigh, Upthegrove and B. Sullivan).

House Committee on Children & Family Services
House Committee on Appropriations
Senate Committee on Early Learning, K-12 & Higher Education
Senate Committee on Ways & Means

Background: Early intervention services to Washington's children with disabilities who are between the ages of birth and three years are available though the Department of Social and Health Services (DSHS) and through some school districts in the state. The DSHS early intervention services are administered under the Infant and Toddler Early Intervention Program (ITEIP). School district early intervention programs are typically provided as part of a continuum of special education services to children with disabilities. School districts may work in partnership with the ITEIP and provide services directly or through contracts with local birth-to-three agencies and providers.

The DSHS is the lead state agency responsible for providing early intervention services to children with disabilities between birth and three years of age and is the payer of last resort for these services. School districts are required to provide special education services to eligible children with disabilities between the ages of three and 21 years. There is, however, no requirement for districts to provide early intervention services to children with disabilities between birth and three years of age.

If a school district chooses to serve pre-school age children with disabilities, it must do so in the birth-to-three age group according to state regulations implementing Part C of the federal Individuals with Disabilities Act (IDEA). School districts opting to provide these early intervention services are entitled to regular apportionments from state and county school funds and allocations from state excess cost funds available for special services to children with disabilities.

Approximately 60 percent of school districts now provide birth-to-three early intervention services. The Office of the Superintendent of Public Instruction (OSPI) and the DSHS estimate these districts are serving about 83 percent of eligible children in the birth-to-three age group statewide.

Summary: By September 1, 2009, each school district must provide or contract for early intervention services to all eligible children with disabilities from birth to three years of age. Eligibility must be determined according to Part C of the IDEA and as specified in state regulation.

School districts must provide or contract for early intervention services in partnership with local birth-to-three agencies and providers. The services must not supplant other services or funding currently provided for birth-to-three early interventions. Birth-to-three early intervention services are declared to be not part of basic education under Article IX of the State Constitution.

Votes on Final Passage:

House	98	0	
Senate	46	0	(Senate amended)
House	95	0	(House concurred)

Effective: June 7, 2006
September 1, 2009 (Section 3)

3SHB 1226
C 348 L 06

Adjusting application of campaign contribution limits.

By House Committee on Appropriations (originally sponsored by Representatives Schual-Berke, Tom, Haigh, Cody, Fromhold, Jarrett, Hudgins, Conway, Appleton, Flannigan, Murray, McCoy, Lantz, Hasegawa, Williams, Kagi, Ormsby, Morrell, Chase, Dickerson, Kenney and Sells).

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

Background: Campaign Contribution Limits. The Fair Campaign Practices Act was enacted with the passage of Initiative 134 in 1992. The initiative imposed campaign contribution limits, further regulated independent expenditures, restricted the use of public funds for political purposes, and required public officials to report gifts received in excess of $50. The contribution limits imposed by Initiative 134 apply only to elections for statewide office and elections for state legislative office. Contribution limits imposed on an individual, a union, a business, or a political action committee are an aggregate of $700 per election to a candidate for state legislative office and an aggregate of $1,400 per election to a candidate for statewide office. These limits are adjusted for inflation by the Public Disclosure Commission (PDC) every two years.

Disclosure for In-State Political Committees. The PDC enforces campaign finance laws for political committees participating in state elections. A political committee is any person (except a candidate or an individual dealing with his or her own resources) who expects to receive contributions or make expenditures to support or oppose a candidate or ballot measure. This includes political parties, political action committees, one-issue groups that disband after a single election, and proponents and opponents of state or local ballot measures that raise or spend money to support or oppose that measure.

Within two weeks of forming, or receiving or spending funds, an in-state political committee must file a statement of organization with the PDC and file monthly contribution and expenditure reports, as long as the total expenditures and contributions exceed $200. If the committee is involved in an election, weekly reports must be filed beginning four months before a special or general election. Special reports are required 21 days before an election, current to within five business days, and seven days before an election, current to within one business day. Late contributions and expenditures of $1,000 or more must be reported if made or received within seven days of a primary election or 21 days of a general election.

Disclosure for Out-of-State Political Committees. The Federal Elections Commission (FEC) enforces campaign finance laws for political committees participating in federal elections. Political committees participating in federal elections must file a statement of organization and detailed quarterly reports of contribution and expenditure activity. During a federal election year, political committees must file monthly reports to the FEC, due on the 20th day of the following month.

An out-of-state political committee that supports or opposes candidates or ballot measures in this state must submit a report to the PDC when it makes an expenditure of $50 or more supporting or opposing a Washington state candidate or political committee. If an out-of-state committee is required to file campaign reports with the FEC, the committee is exempted from in-state reporting. Out-of-state political committees must abide by the contribution limits of the state.

Summary: Campaign Contribution Limits. Campaign contribution limits are extended to:

1) candidates for county office in a county that has over 200,000 registered voters;
2) candidates for special purpose district office in districts authorized to provide freight and passenger transfer and terminal facilities and that have over 200,000 registered voters; and
3) candidates for judicial office.

Contribution limits imposed for candidates for county office may not exceed an aggregate of $700 per election from an individual, a union, a business, or a political action committee. Limits imposed for candidates for special purpose district office or judicial office may not exceed an aggregate of $1,400 per election from an individual, a union or business, or a political action committee. Political party contribution limits also apply.

Contributions to candidates for whom the new limits apply that are received before the effective date of the act are considered to be contributions for the purposes of campaign contribution limits statutes. Contributions that exceed the limitations and have not been spent by the recipient by the effective date of the act must be disposed of in accordance with the laws regarding disposal of surplus funds, except that the surplus funds may not be held by the candidate for a future election or be used for non-reimbursed public office-related expenses.

Out-of-State Political Committees. Provisions related to campaign contribution disclosure by out-of-state political committees are changed. Out-of-state committees must report contributions of $2,500 or more made by out-of-state residents and corporations, and the

required reports must be submitted to the PDC by the 10th of each month. The provision is removed that exempted out-of-state political committees reporting to the FEC from reporting to the PDC.

Votes on Final Passage:

House	58	40	
Senate	36	11	(Senate amended)
House	56	40	(House concurred)

Effective: June 7, 2006

SHB 1257
C 110 L 06

Providing an opportunity to reject motorcycle or motor-driven cycle insurance coverage.

By House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Roach, Kirby, Newhouse, Simpson, Holmquist, Haler, Upthegrove, O'Brien and Nixon).

House Committee on Financial Institutions & Insurance
Senate Committee on Financial Institutions, Housing & Consumer Protection

Background: Definition of Underinsured Motor Vehicle. An "underinsured motor vehicle" is defined as a vehicle in which the party legally responsible (by virtue of ownership, maintenance, or use) for the bodily injury or property damage has either no insurance coverage or insufficient coverage to cover the full amount of the damage costs to which the injured party is legally entitled.

Requirements for Automobile Coverage. Automobile insurance must include coverage for damages resulting from underinsured motor vehicles. An insurer must include protection for insureds who are legally entitled to recover damages for bodily injury, death, or property damage from owners or operators of underinsured motor vehicles, hit-and-run motor vehicles, and phantom vehicles.

Waiver of Underinsured Coverage. An insured or his or her spouse may reject underinsured coverage for bodily injury, death, or property damage. The rejection must be in writing. The rejection requirement applies only to original issuance of policies and not to renewal or replacement policies.

Exemptions from the Coverage Offering. The underinsured coverage requirement does not apply to operating a motorcycle or motor-driven cycle, although some insurers elect to offer it. The coverage requirement also does not apply to general liability policies or other policies acting as excess to the insurance directly applicable to the vehicle insured.

Summary: An insurer who elects to write motorcycle or motor-driven cycle insurance must provide named insureds an opportunity to reject underinsured coverage in writing. An insurer is only required to provide the opportunity to named insureds who have purchased liability insurance.

Votes on Final Passage:

House	97	0	
House	98	0	
Senate	41	4	(Senate amended)
House	97	0	(House concurred)

Effective: June 7, 2006

HB 1305
C 27 L 06

Authorizing background checks before an authorized emergency vehicle permit is issued.

By Representatives Haigh, McDonald, Eickmeyer, Holmquist, Wallace, P. Sullivan, Roach, Morrell and Sells.

House Committee on Transportation
Senate Committee on Transportation

Background: The Washington State Patrol (WSP) is responsible for screening applicants for authorized emergency vehicle permits. This permit is required for drivers of Department of Transportation incident response vehicles, private contractors providing funeral procession traffic control, school security personnel, and fire department chiefs driving private vehicles.

As part of the screening process, applicants are screened through both the WSP's criminal identification section and the Federal Bureau of Investigation (FBI). However, the FBI's policy regarding fingerprint checks requires a legislative enactment authorizing the use of FBI records for the screening of applicants. The WSP is currently using the FBI's records by virtue of a temporary waiver.

Summary: The WSP's equipment and standards review unit must require a records check of all applicants for an authorized emergency vehicle permit through the WSP and the FBI. The record check is required to include a fingerprint check, and the applicant may be employed on a conditional basis pending completion of the investigation.

Votes on Final Passage:

House	96	0
Senate	46	0

Effective: June 7, 2006

EHB 1383
C 300 L 06

Requiring the public employees' benefits board to develop a health savings account option for employees.

By Representatives Condotta, Bailey, Newhouse, Curtis, Hinkle, Pearson, Kretz, Strow, Armstrong, Kristiansen, Talcott, Skinner and Holmquist.

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

Background: In 2003, as part of the Medicare Modernization Act, the U.S. Congress authorized people to establish health savings accounts to work with qualifying high-deducible health coverage to help people finance medical expenses. Health savings accounts are tax-free accounts that can be set up by individuals or employers. They are personal accounts that are owned by individuals, even when employers establish and contribute to them. Interest earned is not taxed, and funds that are not used may carry over to the following year. A qualifying high-deductible health plan is one that has an annual deductible of at least $1,000 for individual coverage and at least $2,000 for family coverage, with out-of-pocket costs not to exceed $5,000 for an individual and $10,000 for families. Preventive care is not subject to the annual deductible. The federal Internal Revenue Service rules on high deductible health plans provide that services such as physicals, immunizations, screenings, prenatal care, and tobacco-cessation programs are covered without imposing any deductible. Preventive care also includes medication taken to prevent a disease or reoccurrence of a disease, such as taking cholesterol-lowering medications to prevent heart disease.

Summary: The Public Employees Benefit Board must develop a health savings account with a high-deductible health plan as an option for employees who receive their health care coverage through the Health Care Authority.

Votes on Final Passage:

House	87	10
House	88	10
Senate	43	4

Effective: June 7, 2006

2SHB 1384
C 176 L 06

Authorizing the construction and operation of renewable energy projects by joint operating agencies.

By House Committee on Technology, Energy & Communications (originally sponsored by Representatives Haler, B. Sullivan, Morris, Crouse, P. Sullivan, Chase and Hudgins).

House Committee on Technology, Energy & Communications
Senate Committee on Government Operations & Elections
Senate Committee on Water, Energy & Environment

Background: Joint operating agencies (JOAs) are formed by cities and public utility districts that join together to develop electricity generation projects. The only JOA currently operating is Energy Northwest, which operates and maintains the state's only nuclear-powered electrical generation facility. Energy Northwest has recently developed a wind power generation site and a solar power demonstration site, and is exploring generation using biomass and fuel cells.

A JOA must use a sealed bid process to purchase materials, equipment, and supplies costing more than $10,000 or to order work for the construction of generating facilities and associated facilities costing more than $10,000.

A JOA may use a competitive negotiation process for contracts to acquire materials, equipment, and supplies or for work performed during the commercial operation of a nuclear generating project. This process may be used where an existing contract is in default or is terminated or if the managing director and the executive board of the JOA finds that the project will be completed or will operate more economically than using the sealed bid process.

The negotiated bid process for selecting a contractor includes several steps. The JOA issues a request for proposal along with public notice similar to that of the sealed bid process. A pre-bid conference is held to discuss and clarify the contract requirements in the request for proposal. Any inquires from potential offerors and the responses from the JOA are given to all potential offerors. The contract requirements may be refined during this process.

Once offerors submit proposals, further discussion and clarification takes place with each offeror. Proposals may be revised in order to obtain the best and final offers. Proposals must be opened and discussed in a manner that protects their disclosure to competing offerors during the negotiation process.

The JOA selects the offeror's proposal that is most advantageous to the JOA and the state. The basis of the final selection must be part of the contract file. After a contract is awarded, a register of proposals is available

for public inspection. Any offeror may request a briefing conference on the selection.

The contract may be fixed price or cost-reimbursable, but not cost plus percentage of cost.

Summary: A JOA's authorization to use a competitive negotiation process is extended to the acquisition of materials, equipment, and supplies, and to work performed in support of siting, constructing, developing, or deploying of a renewable electrical energy generation project. The competitive negotiation process may be used if the managing director and the executive board of the JOA find that the project operation or completion will be more economical than using the sealed bid process.

Renewable Energy. A renewable electrical generation project is a generation facility fueled by wind, solar energy, geothermal energy, landfill gas, wave or tidal action, gas produced by wastewater treatment, qualified hydropower, or biomass energy. Qualified hydropower means energy produced either: as a result of modernizations or upgrades made after June 1, 1998, to hydropower facilities operating on May 8, 2001, that have been demonstrated to reduce the mortality of anadromous fish; or by run of the river or run of the canal hydropower facilities that are not responsible for obstructing the passage of anadromous fish.

Selection of Contractor. The selection process follows specified procedures which include a request for proposals stating requirements, a preproposal conference, and periodic discussions open to all responsible offerors to assure full understanding of requirements. The selection of a contractor must be made in an open public meeting as part of the public record.

The JOA must execute a contract with the responsible offeror whose proposal is determined to be the most advantageous to the JOA and the state. Responsible offerors are offerors who possess necessary management and financial resources, experience, and organize, and the ability, capacity, and skill to successfully perform the contract. Offerors must demonstrate through their proposal professional competence, the technical merits of the offer, and the price. Professional competence is the offeror's totality of demonstrated experience, knowledge, skills, proficiency, and abilities to successfully perform the contract.

Through out the process any inquiry is confirmed by the JOA and the response is sent to all potential offerors. Also, proposals submitted are opened in a manner that avoids disclosure of contents to competing offerors during the process of negotiation. After the contract is awarded, a register of proposals will be made available for public inspection.

Contract Restrictions. The contract may be fixed price or cost-reimbursement, but not cost plus percentage of cost.

Votes on Final Passage:

House 94 2
Senate 32 14

Effective: June 7, 2006

HB 1439

PARTIAL VETO

C 363 L 06

Modifying competitive bidding provisions.

By Representatives Green, Nixon, Haigh, Upthegrove, Chase and Dunn; by request of Department of General Administration.

House Committee on State Government Operations & Accountability

Senate Committee on Government Operations & Elections

Background: The state purchasing and material control director of the Department of General Administration (GA) is responsible for, among other things, the purchase of all materials, supplies, services, and equipment needed for the operation of all state institutions. With some exceptions, a formal sealed bid procedure is required for all purchases and contracts for purchases and sales above a certain dollar amount.

Public works bids are addressed throughout statute and described individually for

different public bodies. Under most circumstances, contractors are selected through competitive bidding. The contract is awarded to the lowest responsible bidder, although the public body selecting the contractor is permitted to reject any or all bids.

Summary: The state law governing the state's purchase of goods and services is amended to allow for electronic or web-based bid procedures for all purchases and contracts for purchases executed by the GA. Under competitive bidding procedures, the bid must be given in a written or electronic format. Bid prices may not be disclosed during an electronic or web-based bidding process.

Under certain competitive bidding processes the agency soliciting bids may not reject all bids after bids are opened unless there is a compelling reason. This applies to: (1) public works projects undertaken by any state agency, cities with a population greater than 100,000, or counties with a population greater than 500,000; (2) any agency or institution of state government for personal services contracts; and (3) the Information Services Board when purchasing, leasing, renting, or acquiring equipment, proprietary software, or other purchased services.

The circumstances in which a solicitation may be canceled and all bids rejected before the award, but after bid opening, are as follows:

- unavailable, inadequate, ambiguous specifications, terms, conditions or requirements were cited;
- specifications, terms, conditions, or requirements have been revised;
- services being contracted for are no longer required;
- solicitation did not provide for the consideration of all cost factors;
- bids received indicate that needs can be met by a less expensive article or process;
- all otherwise acceptable bids received are at unreasonable prices or only one bid is received or the public entity cannot determine the reasonableness of the bid;
- no responsive bid was received from a responsible bidder; or
- the bid process was not fair or equitable.

Votes on Final Passage:

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

Effective: June 7, 2006

Partial Veto Summary: Provisions relating to the rejection of bids without a compelling reason for: (1) public works projects undertaken by any state agency, city with a population greater than 100,000, or county with a population greater than 500,000; (2) any agency or institution of state government for personal services contracts; and (3) the Information Services Board when purchasing, leasing, renting, or acquiring equipment, proprietary software, or other purchased services, were vetoed.

VETO MESSAGE ON HB 1439

March 30, 2006

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

Ladies and Gentlemen:

I am returning, without my approval as to Sections 4, 5 and 6, House Bill No. 1439 entitled:

"AN ACT Relating to electronic and web-based bidding."

The Department of General Administration (Department) generally awards contracts through a competitive, formal, sealed bid process. Under House Bill No. 1439 the Department would be allowed to receive bids electronically or through the web. This is a step in the right direction. I support changes that will make the existing, complicated procurement process easier to manage and use.

However, Sections 4, 5, and 6 of the bill restrict cancellation of the bidding process and re-bidding on public works, personal service, and information technology related contracts. This bill takes cancellation language related to purchased goods and services contract bidding procedures and tries to apply it to other types of contracts, like public works contracts. Yet, there are significant differences between these contracting procedures. While the sealed bid process for purchased goods and services contracts focuses primarily on price, public works and personal service contracts address several factors including price, ability to do the work, vendor qualifications, and prior vendor experience. I am therefore concerned about the impact of Sections 4, 5 and 6.

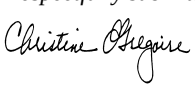
I do not look favorably on agencies irresponsibly canceling all bids after bid opening and commencing a re-bidding process. Contractors spend too much time and effort on preparing bids to have them cancelled simply because an agency is trying to 'price' a project. This is too important an issue to be addressed through language that does not comprehensively address the complex differences between our contracting processes.

As such, I am vetoing Sections 4, 5, and 6. I urge the Legislature to revisit this issue with input from all stakeholders, cities, counties, and the business community, and to propose cancellation language appropriate for our state's contracting system.

For these reasons, I have vetoed Sections 4, 5 and 6 of House Bill No. 1439.

With the exception of Sections 4, 5 and 6 of House Bill No. 1439 is approved.

Respectfully submitted,



Christine O. Gregoire
Governor

3SHB 1458
C 18 L 06

Concerning the management of on-site sewage disposal systems in marine areas.

By House Committee on Natural Resources, Ecology & Parks (originally sponsored by Representatives Hunt, Dickerson, McCoy, B. Sullivan, Williams, Haigh, Appleton, Linville, Chase, Dunshee, Simpson, Upthegrove, Moeller and McDermott).

House Committee on Natural Resources, Ecology & Parks
House Committee on Appropriations
Senate Committee on Water, Energy & Environment
Senate Committee on Ways & Means

Background: The State Board of Health (Board) provides a forum for the development of public health policy in Washington. The Board has adopted rules and standards for prevention, control, and abatement of health hazards and nuisances related to the disposal of wastes, including on-site sewage systems (OSS). Permits are required for the installation, alteration, extension, or relocation of an OSS. Local boards of health issue OSS permits, enforce the standards, and may adopt more stringent local standards.

In October 2000, the Department of Health (DOH) convened the On-Site Wastewater Advisory Committee (Committee) to advise the DOH on policy matters relating to the Wastewater Management Program. The Committee developed 55 policy recommendations which were prioritized in three areas: operation and maintenance of OSS; rule development initiatives; and funding initiatives. A rule development committee was formed in February 2002 to assist the DOH to initiate the OSS rule revision process, and a final rule was adopted in July 2005.

The DOH Commercial Shellfish Licensing and Certification Program issues licenses to commercial shellfish operations and certifies their harvest sites. The commercial harvest of shellfish must be from a growing area that is classified as approved or conditionally approved according to provisions of the National Shellfish Sanitation Program Model Ordinance. The DOH Growing Area Classification Program assesses shellfish growing areas and classifies them as either approved, conditionally approved, restricted, or prohibited.

The Federal Clean Water Act (CWA) sets a national goal to restore and maintain the chemical, physical, and biological integrity of the nation's waters and to eliminate pollutant discharges into navigable waters. The CWA sets effluent limitations for discharges of pollutants to navigable waters, and the Department of Ecology (DOE) is delegated federal CWA authority by the United States Environmental Protection Agency (EPA) and also is the agency authorized by state law to implement state water quality programs. Section 303(d) of the Federal CWA requires states to prepare a list every two years of the specific water bodies or water body segments that do not meet the state water quality standards, also known as the 303(d) list.

Summary: By July 1, 2007, local health officers in 12 counties bordering the Puget Sound must develop and approve an OSS program management plan that will guide the development and management of OSS in marine recovery areas within the local health jurisdiction. The local health jurisdictions are in the following counties and regions: Clallam, Island, Kitsap, Jefferson, Mason, San Juan, Seattle-King, Skagit, Snohomish, Tacoma-Pierce, Thurston, and Whatcom.

In developing the OSS program management plan, the local health officers must propose marine recovery areas where an OSSs is a significant factor contributing to concerns with: (1) shellfish growing areas that have been threatened or downgraded; (2) state waters listed under the CWA for low oxygen levels or fecal coliform; or (3) marine waters where nitrogen has been identified as a contaminant of concern. In determining the area's boundaries, the health officer must include geographic areas where existing OSS may have an impact. Once a marine recovery area has been proposed, the local health officer must develop and approve an on-site strategy to manage OSS within the proposed area.

The onsite strategy must address how the jurisdiction will:

- find failing OSS and ensure system owners make repairs by July 1, 2012; and
- find unknown OSS and ensure they are inspected or repaired by July 1, 2012.

The DOH may grant a 12-month extension where a local health jurisdiction has demonstrated substantial progress.

In addition, local health officers must require that OSS maintenance specialists and septic tank pumpers report any failing OSS. Working with the DOH, local health officers must develop an electronic data system to actively manage OSS within their jurisdiction.

The OSS management plans must be submitted to the DOH by July 1, 2007. The DOH must review all plans to ensure the required elements and designation of marine recovery areas are addressed. Within 30 days of receiving an on-site strategy, the DOH must either approve the strategy or provide in writing the reasons for not approving the strategy. If the strategy is not approved, the local board of health can revise and resubmit the strategy or may appeal the denial to the Board.

The DOH will enter into a contract with each local health jurisdiction to implement OSS plans or enhance its data systems. The contract must require evidence of progressive improvement in the marine recovery areas and other performance expected under the plan.

The DOE must offer financial and technical assistance to local governments and tribal entities in Puget Sound counties to establish or expand OSS repair and replacement loan and grant programs. The programs must give priority to low-income home owners and award grants based on financial need.

The DOH must report to the appropriate committees of the Legislature by December 31, 2008, on progress in designating marine recovery areas and developing and implementing on-site strategies. The DOH must convene a work group for the purpose of making recommendations to the Legislature for the development of certification or licensing of OSS maintenance specialists.

Votes on Final Passage:

House	70	26
Senate	28	15

Effective: June 7, 2006

HB 1471
C 198 L 06

Changing provisions relating to authentication of documents.

By Representatives Lovick, McDonald and Takko.

House Committee on Judiciary
Senate Committee on Judiciary

Background: In court proceedings, parties who wish to introduce a document into evidence must overcome three specific hurdles in addition to the normal evidentiary requirements. First, the document must be shown to be authentic. Second, the contents of a document might be hearsay and, if so, must fit within an exception to the hearsay rule. Finally, court rules require production of either an original or a mechanically or electronically produced duplicate in most circumstances.

Under state law, copies of public records meet all

three hurdles if they satisfy statutory requirements for the particular type of document. Court records, public records of state agencies, recorded instruments (deeds, mortgages, etc.) filed in offices with official seals, and county records may all be admitted into evidence if accompanied by an official seal and certification from a clerk or other custodian of the records. Copies of certified written instruments may also be sent by telegraph and have the same effect as if the original were sent.

The Legislature last updated the seal requirement in 1881. When a seal is required to authenticate public records, it must be impressed directly on the paper, although a wafer or wax seal is not required. When the document is telegraphed, the seal requirement is satisfied if the telegraph contains the letters "L.S." or the word "seal." The party challenging the authenticity of the telegraphed document bears the burden of proof.

A search of appellate level decisions reveals no successful challenges to admission of a document because of an improperly affixed seal. The only reported case to address the issue occurred in 1992. In that case, the Court of Appeals upheld admission of a faxed copy of a document that had been impressed with a seal prior to transmission.

Summary: Seals required to authenticate documents need only be printed onto the document in some fashion to be considered valid. Additionally, certified copies of official documents may be sent by telegraph or other electronic transmission and still be treated as genuine.

Votes on Final Passage:

House	89	0
House	96	0
Senate	46	0

Effective: June 7, 2006

4SHB 1483
C 304 L 06

Establishing a reinvesting in youth program.

By House Committee on Appropriations (originally sponsored by Representatives Dickerson, McDonald, Moeller, Darneille, Jarrett, Simpson, Morrell, Sommers, Kenney, McDermott, Kagi, Chase and Clibborn).

House Committee on Juvenile Justice & Family Law
House Committee on Appropriations
Senate Committee on Human Services & Corrections
Senate Committee on Ways & Means

Background: In 2003, the Legislature directed the Washington State Institute for Public Policy (WSIPP) to review research assessing the effectiveness of prevention and early intervention programs concerning children and youth. The Legislature required the WSIPP to use the research to identify specific research-proven programs that produce a positive return on the dollar compared to the costs of the program. The WSIPP was also required to develop criteria designed to ensure quality implementation and program fidelity of research-proven programs in the state.

As part of this project, the Legislature also directed the WSIPP to investigate ways in which local government can be encouraged to develop economically attractive prevention and early intervention programs.

As a result of the study, the WSIPP found that some prevention and early intervention programs for youth can give taxpayers a good return on their dollar. The study identified several programs that, if properly implemented, are likely to reduce taxpayer and other costs in the future. The WSIPP developed a table that summarized the benefits and costs of the specific research-proven programs that were evaluated.

In addition to evaluating specific programs, the WSIPP recommended that the state determine a set of research-based prevention and early intervention programs that would be eligible for reimbursement. The WSIPP recommended establishing an entity to develop a list of approved research-based prevention and early intervention programs. The WSIPP also identified a set of methods to be used as tools to help identify those programs that produce the best return for taxpayers.

The WSIPP also found that another responsibility of the state entity might be to develop an incentive reimbursement methodology for review by the Legislature and Governor. The purposes of the reimbursement formula would be to ensure that: (1) the state receives high-quality implementation of the research-based programs by local government; and (2) local government receives a portion of the benefits that would otherwise accrue to the state as a result of the implementation of a successful prevention or early intervention program. The programs chosen must then be implemented with quality control and program fidelity.

The enacted 2005-07 state budget transferred $997,000 in state funding from the Governor's Juvenile Justice Advisory Committee to the Juvenile Rehabilitation Administration for the establishment of a Reinvesting in Youth pilot program that awarded grants to counties for implementing research-based early intervention services that target juvenile justice-involved youth and reduce crime.

Summary: Establishment of the Reinvesting in Youth Program. The Department of Social and Health Services Juvenile Rehabilitation Administration (JRA) is required to establish a Reinvesting in Youth Program that awards grants to counties for implementing research-based early intervention services that target juvenile justice-involved youth and reduce crime. The WSIPP and the JRA are required to develop the guidelines for the implementation of the program. Beginning in 2007, any county or group of counties may apply for participation in the pro-

gram. In order to participate in the program, counties must meet all the following criteria:

1) Counties must match state moneys awarded for research-based early-intervention services with non-state resources that are at least proportional to the expected local government share of state and local government cost avoidance.
2) Counties must demonstrate that state funds allocated pursuant to the program are used only for the selected research-based services.
3) Counties must participate fully in the state quality assurance program to ensure fidelity of program implementation. If no state quality assurance program is in effect for a particular selected research-based service, the county must submit a quality assurance plan for state approval with its grant application. Failure to demonstrate continuing compliance with quality assurance plans must be grounds for termination of state funding.
4) Counties that submit joint applications must submit, for approval by the JRA, multi-county plans for efficient program delivery.

Counties participating in the program will have a portion of their costs of implementing the program reimbursed by the state. The amount of the reimbursement is dependent upon the calculation of cost savings to the state. In order to receive the funding, the service models utilized by the counties must meet all the following criteria:

1) There must be scientific evidence from at least one rigorous evaluation study of the specific service model that measures recidivism reduction.
2) There must be evidence that the specific service model's results can be replicated outside of an academic research environment.
3) The evaluation or evaluations of the service model must permit dollar cost estimates of both benefits and costs so that the benefit-cost ratio of the model can be calculated.
4) The public taxpayer benefits to all levels of state and local government must exceed the service model costs.

The JRA is required to form a technical advisory group to assist in the implementation of the program. The JRA is also required to establish a distribution formula to provide funding to local governments that are implementing the program. The JRA will report to the Legislature on the initial cost savings calculation methodology and the distribution formula on or before October 1, 2006.

In 2006, the WSIPP is required to publish a list of service models that are eligible for reimbursement through the Reinvesting in Youth Program. Also in 2006, the WSIPP is required to update the calculations of savings resulting from implementation of the program and a technical work group will review and comment on the WSIPP findings. The WSIPP is required to periodically update the methodology for cost savings calculations. The WSIPP must report the estimated savings and avoided costs to the Legislature.

Reinvesting in Youth Account. A Reinvesting in Youth Account is created in the state treasury, and moneys in the account may be spent only after appropriation. Expenditures from the fund may be used to reimburse local governments for implementation of the Reinvesting in Youth Program. The JRA will review and monitor expenditures made from this account.

The act does not create an entitlement for any county to receive funding under the Reinvesting in Youth Program. If specific funding is not provided for the act is null and void.

Votes on Final Passage:

House	98	0
Senate	47	0

Effective: July 1, 2006

SHB 1504
C 28 L 06

Changing abandoned vehicle auction notice requirements.

By House Committee on Transportation (originally sponsored by Representatives Simpson, Woods and Lovick).

House Committee on Transportation
Senate Committee on Transportation

Background: When an abandoned vehicle is towed, the tow truck operator must file an abandoned vehicle report with the Department of Licensing. Within 24 hours after the tow truck operator receives information on the owners from the Department of Licensing, the tow truck operator must send by certified mail, with return receipt requested, a notice of custody and sale to the legal and registered owners.

After 15 days from the date of mailing the notice of custody and sale, if the vehicle remains unclaimed and has not been listed as a stolen vehicle, or if a suspended license impound has been directed, then the tow truck operator may conduct a sale of the vehicle at public auction. The tow truck operator must publish a notice of the date, place and time of the auction in a newspaper of general circulation in the county in which the vehicle is located. This is required for not less than three days and no more than 10 days before the date of the auction.

The notice must contain a description of the vehicle including the make, model, year, and license number and that a three-hour public viewing period is available prior to the auction.

Summary: A newspaper of general circulation used to publish notice of a vehicle auction may be a commercial,

widely circulated, free, classified advertisement circular not affiliated with the registered tow truck operator.

The public notice of a vehicle auction must include a method to contact the tow truck operator.

The viewing period prior to the auction is changed from three hours prior to one hour prior if 25 or fewer vehicles are to be auctioned, two hours if more than 25 and fewer than 50 vehicles are to be auctioned, and three hours if 50 or more vehicles are to be auctioned.

The public notice must also include the length of the viewing period prior to the auction.

Votes on Final Passage:

House	97	1
Senate	48	1

Effective: June 7, 2006

SHB 1510
C 305 L 06

Modifying the property taxation of nonprofit entities.

By House Committee on Finance (originally sponsored by Representatives Morris, Quall, B. Sullivan and Chase).

House Committee on Finance
Senate Committee on Ways & Means

Background: All property in this state is subject to the property tax each year based on the property's value, unless a specific exemption is provided by law. Several property tax exemptions exist for nonprofit organizations. Examples of nonprofit property tax exemptions are: character building, benevolent, protective or rehabilitative social service organizations providing services for all ages; churches and church camps; youth character-building organizations; war veterans organizations; national and international relief organizations; federal guaranteed student loan organizations; blood, bone, and tissue banks; public assembly halls and meeting places; medical research or training facilities; museums; performing arts centers; sheltered workshops; fair associations; humane societies; water distribution property; schools and colleges; radio/television rebroadcast facilities; fire company property; day-care centers; free public libraries; orphanages; nursing homes; hospitals; outpatient dialysis facilities; homes for the aging; and homeless shelters.

Nonprofit tax-exempt property that is used for non-exempt activities will lose its tax exempt status, unless one of the following exceptions applies:

- The property may be used for fund-raising activities without jeopardizing the exemption if the fund-raising activities are consistent with the purposes for which the exemption is granted.
- The property may be loaned or rented to an organization that would be exempt from tax if it owned the property.
- Museums and performing arts centers may be rented to entities not eligible for property tax exemption for up to 25 days each year.
- Museums and performing arts centers may be used for pecuniary gain or to promote business activities for seven days or less each year.
- Property owned by war veterans associations may be used for pecuniary gain or to promote business activities for three days or less each year.
- Public assembly halls and meeting places may be used for pecuniary gain or to promote business activities for seven days or less each year and also may be used for dance lessons, art classes, or music lessons for any number of days in counties under 10,000 in population.

If rent is charged for the use of nonprofit tax-exempt property, the rent must be reasonable and not exceed maintenance and operation expenses.

If nonprofit property is used in a manner inconsistent with the requirements above, the property will lose its tax-exempt status and back taxes will be due. For a nonprofit foundation that supports an institution of higher education, taxes which would have been paid during the previous seven years must be repaid. For all other nonprofit organizations, taxes which would have been paid during the previous three years must be repaid. Interest is due on repayments of back taxes.

Summary: The number of days a public assembly hall or meeting place may loan or rent its property for pecuniary gain or to promote business activities is increased from seven to fifteen days per year. Counties in which a public assembly hall or meeting place may be used for dance lessons, art classes, or music lessons for any number of days is increased from 10,000 to 20,000 in population. Any rents received must be used for capital improvements to the exempt property, maintenance and operation of the exempt property, or for exempt purposes.

Nonprofit nonsectarian character-building, benevolent, protective, and rehabilitative social service organizations in counties with less than 20,000 population may loan or rent their property for pecuniary gain or to promote business activities for up to 15 days per year if there is no private for-profit facility that could be used within 10 miles. These organizations may also loan or rent their property to a nonprofit community group or other nonprofit organization that might not qualify for exemption, for up to 15 days per year, if members of the community derive a benefit from the rental or use. Any rents received must be used for capital improvements to the exempt property, maintenance and operation of the exempt property, or for exempt purposes. The number of days a war veterans organization may loan or rent its

property for pecuniary gain or to promote business activities is increased from three to 15 days per year. If nonprofit exempt property is transferred to a state or local government agency, no back taxes are due.

Votes on Final Passage:

House	96	0	
House	96	0	
Senate	47	0	(Senate amended)
House	95	0	(House concurred)

Effective: June 7, 2006

SHB 1523
C 142 L 06

Extending a sales and use tax exemption to the construction of new facilities to be used for the conditioning of vegetable seed.

By House Committee on Finance (originally sponsored by Representatives Quall, Morris, Pettigrew, Kilmer, Talcott, Pearson, Linville and Kristiansen).

House Committee on Economic Development, Agriculture & Trade
House Committee on Finance
Senate Committee on Agriculture & Rural Economic Development
Senate Committee on Ways & Means

Background: Retail Sales and Use Tax. The retail sales tax applies to the selling price of tangible personal property and of certain services purchased at retail. Sales tax is paid by the purchaser and collected by the seller. The use tax is imposed on items used in the state that were not subject to the retail sales tax and includes purchases made in other states and from sellers who do not collect Washington sales tax. The retail sales and use tax is imposed at a 6.5 percent rate by the state. In addition, state law allows for 17 different local option sales and use taxes for purposes including but not limited to transportation, criminal justice, public safety, public facilities, zoos, and sports stadia. As of April 2006, local rates range from 0.5 percent to 2.4 percent.

Rural County/Distressed Area Sales and Use Tax Deferral Program. The rural county and distressed area tax deferral as originally enacted in 1985 provided a deferral of sales and use taxes due on plant construction and expansion or on acquisition of equipment by firms that engaged in manufacturing, research and development, or computer programming activities in counties with high rates of unemployment. In 1999, the program was changed so that the incentive became available in any "rural county," defined as a county with a population density of less than 100 people per square mile, and in counties with community empowerment zones. In 2004, the program was again revised so that the incentive also became available in counties smaller than 225 square miles.

Under the original deferment, the sales/use tax liability was deferred for three years, followed by a five-year graduated repayment. Since 1994, the repayment requirement has been waived provided program requirements are maintained, thereby making the program an outright exemption. The statute is scheduled to expire on July 1, 2010.

To receive the deferral, a firm must apply to the Department of Revenue (Department) prior to the initiation of construction or acquisition of equipment. The application must contain information regarding the project location, costs, employment, wages, and schedules.

Under the program, a property owner who leases to another may receive deferral of taxes on qualifying expenditures, if the owner under a written contract agrees to pass the economic benefit of the deferral onto the lessee by reducing the amount of the lease payments.

Recipients of a deferral are required to submit a report to the Department by the end of the year in which the project is put into operation and for each of the seven following years. The report must contain information that allows the Department to determine whether the recipient is meeting the eligibility requirements of the program. If the Department finds that an investment project is not eligible for the tax deferral, the deferred taxes outstanding for the project are immediately due.

The Department is required to study the sales and use tax deferral program and report back to the Legislature by December 1, 2009, on the effects of the program on job creation, company growth, introduction of new products, diversification of the state's economy, and other outcome measures.

Thirty-two counties are eligible as rural counties under the program and four additional counties are eligible because they contain community empowerment zones. According to the Department, in recent years, the number of projects approved has ranged from a low of 20 per year to a high of 168, and annual taxpayer savings has ranged from a low of $2.5 million to a high of $16 million.

Summary: The definition of "manufacturing" for purposes of the rural county/distressed area sales and use tax deferred is expanded to include the conditioning of vegetable seed.

Votes on Final Passage:

House	98	0	
Senate	43	5	(Senate amended)
House	97	1	(House concurred)

Effective: July 1, 2006

HB 1641
C 29 L 06

Decriminalizing vessel registration violations.

By Representatives Kretz, Blake, Ahern, Buri, Ericks, Serben, DeBolt, Schindler, Kristiansen, Condotta, Orcutt, Strow, Cox, Buck and Armstrong.

House Committee on Natural Resources, Ecology & Parks
Senate Committee on Natural Resources, Ocean & Recreation

Background: The vessel registration chapter covers recreational vessel registration and includes statutes governing related subjects. A vessel is defined as every watercraft used, or capable of being used, as a means of transportation on the water, other than a seaplane.

Generally, no person may own or operate any vessel unless the vessel is registered and displays the proper documentation. There are certain exceptions such as vessels under 16 feet in length with no propulsion machinery or with machinery of ten or less horsepower and human-powered vessels. A person must produce proper vessel documentation when asked by law enforcement.

Except those violations specifically exempted, a violation of the vessel registration chapter constitutes a misdemeanor offense punishable only by the following fines:

- up to $100 per vessel for the first offense;
- $200 per vessel for the second offense in the same year; and
- $400 per vessel for the third and subsequent offenses in the same year.

The maximum penalty and default amount for a class 2 civil infraction is $125. After the assessment of public safety and education fees and the subtraction of court fees, the remainder of the fine is given to the general fund of the jurisdiction issuing the infraction.

Summary: The violations under the vessel registration chapter for failing to register and failing to produce registration when asked are changed from misdemeanor offenses to class 2 civil infractions.

Votes on Final Passage:

House	98	0	
Senate	43	0	

Effective: June 7, 2006

SHB 1650
C 270 L 06

Modifying civil and traffic infraction provisions.

By House Committee on Criminal Justice & Corrections (originally sponsored by Representatives O'Brien, Newhouse, Lovick and Rodne; by request of Integrated Justice Information Board).

House Committee on Criminal Justice & Corrections
Senate Committee on Judiciary

Background: Traffic Infractions and Citations. When issued a traffic infraction, the person cited must sign the ticket as an acknowledgment of his or her receipt of the notice of infraction and as a promise to respond as directed in the notice. A notice of traffic infraction represents a determination that an infraction has been committed. Signing the notice of infraction is not a waiver of the right to contest this determination. A traffic infraction is a non-criminal offense. However, failure to sign a notice of infraction acknowledging receipt of the notice is a gross misdemeanor.

If a law enforcement officer serves a traffic citation and notice to appear on a person who has been arrested for any violation of the traffic laws or regulations punishable as a misdemeanor, the person must give his or her written promise to appear in court by signing the citation as a condition precedent to his or her release. Signing the citation is not an admission of guilt.

Other Civil Infractions. A civil infraction is a non-criminal offense for which imprisonment may not be imposed. Civil infraction notices are required by statute to include a statement which the cited person must sign, stating that he or she promises to respond to the notice of civil infraction in one of the ways allowed by statute. The notices must also state that failure to respond to a notice of civil infraction as promised, or to appear at a requested hearing, is a misdemeanor.

Summary: The requirement that a person who is cited for a traffic or other civil infraction or citation must sign the notice of infraction or citation is removed, and the refusal to sign such notices is decriminalized. The requirement that a person who is arrested for a traffic law violation punishable as a misdemeanor must sign a notice of written promise to appear in court in order to secure his or her release is removed. A person who receives a statement of his or her options and procedures for responding to a notice of civil infraction, and who thereafter fails to exercise one of those options in a timely manner, is guilty of a misdemeanor.

Votes on Final Passage:

House	98	0	
Senate	48	0	(Senate amended)
House	95	0	(House concurred)

Effective: June 7, 2006

ESHB 1672
C 165 L 06

Requiring hospitals to establish a safe patient handling committee.

By House Committee on Commerce & Labor (originally sponsored by Representatives Conway, Hudgins, Green, Cody, Appleton, Morrell, Wood, McCoy, Kenney, Moeller and Chase).

House Committee on Commerce & Labor
House Committee on Appropriations
Senate Committee on EnterCommittee

Background: There are approximately 97 hospitals in Washington, including public hospital districts, private not-for-profit hospitals, private for-profit hospitals, and three state hospitals for the care of the mentally ill. The majority of the hospitals are public hospital districts and private not-for-profit hospitals.

Several states have considered legislation aimed at safe patient handling in hospitals. For example, in 2005 Texas enacted a law requiring hospitals and nursing homes to adopt and implement policies to identify, assess, and develop strategies to control risk of injury associated with the lifting, transferring, repositioning, or movement of patients. The California Legislature passed a bill requiring a zero lift policy in certain hospitals, but the bill was vetoed by the Governor.

In 2005, at the request of the House Commerce and Labor Committee, the Department of Labor and Industries convened a task force to examine patient lifting programs and policies. The Department reported the findings of the task force to the House Commerce and Labor Committee in January 2006. In the report, entitled "Lifting Patients/Residents/Clients in Health Care," the task force did not make recommendations, but concluded, in part, that:

- manual handing of patients has been recognized as hazardous for caregivers and patients; and
- the hazards of manual handling can be reduced by a programmatic approach that includes:
  - policies for risk assessment and control;
  - having adequate types and quantities of equipment and staffing;
  - ongoing patient handling training;
  - management commitment and staff involvement;
  - incident investigation, follow-up and communication.

The task force also identified barriers to the implementation of no lift programs, such as funding.

Summary: By February 1, 2007, all hospitals must establish a Safe Patient Handling Committee (Committee) or assign the duties of a Safe Patient Handling Committee to an existing committee. At least half of the Committee members must be frontline non-managerial employees who provide direct care to patients unless doing so will adversely affect patient care. The purpose of the Committee is to design and recommend the process for implementing a Safe Patient Handling Program.

By December 1, 2007, all hospitals must also establish a Safe Patient Handling Program. This program must include:

- implementing a safe patient handling policy for all hospital shifts and units;
- conducting a patient handling hazard assessment, which should consider patient-handling tasks, types of nursing units, patient populations, and patient care areas;
- developing a process to identify the appropriate use of the safe patient handling policy based on the patient's physical and medical condition and the availability of lifting equipment or lift teams;
- conducting an annual performance evaluation to determine effectiveness in reducing musculoskeletal disorder claims and related lost work days, and to make recommendations; and
- considering the feasibility of incorporating patient handling equipment or the physical space needed to incorporate it when developing architectural plans.

By January 30, 2010, hospitals must complete, at a minimum, acquisition of their choice of: (1) one lift per acute care unit on the same floor unless the Committee determines a lift is unnecessary; (2) one lift for every 10 acute care available inpatient beds; or (3) equipment for use by lift teams. Hospitals must train staff on policies, equipment, and devices at least annually.

"Safe patient handling" means the use of engineering controls, lifting and transfer aids, or assistive devices, by lift teams or other staff, instead of manual lifting to perform the acts of lifting, transferring, and repositioning health care patients and residents.

These provisions do not preclude lift team members from performing other assigned duties. In addition, if a hospital employee, pursuant to refused procedures established by the hospital, refuses to perform patient handling, the employee is not subject to discipline based on that refusal.

The Department of Labor and Industries must develop rules to provide a reduced workers' compensation premium for hospitals that implement a Safe Patient Handling Program. Reports are due to the Legislature on December 1, 2010, and 2012, and must include information about changes in claim frequency and costs.

A Business and Occupation tax credit is established for hospitals licensed by the Department of Health. The credit is equal to 100 percent of the cost of acquiring mechanical lifting devices consistent with a Safe Patient Handling Program. The maximum credit for each hospital is $1,000 for each acute care available inpatient bed. The Department of Revenue must disallow any credit that would cause the total amount of credits claimed statewide to exceed $10 million.

Votes on Final Passage:

House	85	13
Senate	48	0

Effective: June 7, 2006

SHB 1841
C 224 L 06

Revising provisions for electrical trainees.

By House Committee on Commerce & Labor (originally sponsored by Representatives Wood, Kenney, Conway, Strow, Sells, Simpson, Hasegawa and Santos).

House Committee on Commerce & Labor
Senate Committee on Labor, Commerce, Research & Development

Background: Electrical Trainee Continuing Education. The Department of Labor and Industries (Department) administers electrical contracting and certification laws. These laws establish requirements for trainees to work in the electrical construction trade.

To work as a trainee in the electrical construction trade, a person must obtain an electrical trainee certificate. The trainee must renew the certificate biennially. When renewing the certificate, the trainee must provide the Department with a list of the trainee's employers during the previous biennial period and the number of hours worked for each employer.

Electrical Contractor Advertising. State law provides that it is unlawful to engage in, conduct, or carry on the business of doingcertain electrical work without having an electrical contractor license. It does not, however,explicitly prohibit advertising, offering to do, or submitting a bid for such work without alicense.

In contrast, it is unlawful to advertise, offer to do work, submit a bid, engage in, conduct, orcarry on the business of doing telecommunications work without having a telecommunications contractor license. Similarly, it is unlawful to advertise, offer to do work, submit a bid, or perform any work as a contractor without being a registered contractor.

Summary: Electrical Trainee Continuing Education. The requirements for renewing trainee certificates are modified. As of July 1, 2007, in addition to the list of past employers and hours worked for those employers, a trainee must provide proof of 16 hours of certain course work. This course work includes continuing education courses covering national and state electrical codes or electrical theory, or equivalent courses taken as part of an approved apprenticeship or electrical training program.

Electrical Contractor Advertising. It is unlawful to advertise, offer to do, or submit a bid for electrical work without having anelectrical contractor license, as well as to engage in, conduct, or carry on the business of doing certain electrical work without such a license.

Votes on Final Passage:

House	94	0	
House	98	0	
Senate	44	0	(Senate amended)
House			(House refused to concur)
Senate			(Senate receded)
Senate	47	1	(Senate amended)
House	98	0	(House concurred)

Effective: June 7, 2006

ESHB 1850
C 72 L 06

Creating a retired volunteer medical worker license.

By House Committee on Health Care (originally sponsored by Representatives Schual-Berke and Cody).

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

Background: Retired Health Care Provider Licenses. Retired health care providers may obtain a retired active credential if such a credential is authorized by the appropriate disciplining authority. Retired active status allows the license holder to practice for no more than 90 days per year or in emergency situations. License holders must maintain any continuing education obligations that may be required of the profession, and they receive a reduced licensing fee.

Immunity for Volunteers. The Good Samaritan Act provides immunity from liability for individuals who provide emergency care at the scene of an emergency without expectation of compensation. In recent years, the Good Samaritan Act has been amended to include immunity provisions for health care providers who volunteer health care services in certain community health care settings. These immunity provisions do not apply to acts or omissions that constitute gross negligence.

In 1997 the U.S. Congress passed the Volunteer Protection Act which provides immunity from liability for individuals providing volunteer services for government or nonprofit entities as long as the volunteer does not commit an act or omission that constitutes gross negligence. In 2001 Washington passed immunity protections to enact more specific standards than the Volunteer Protection Act. In Washington, volunteers for a nonprofit entity only receive the immunity protection when the entity maintains a prescribed amount of liability insurance relative to its revenues.

Summary: The Secretary of Health (Secretary) is authorized to issue a retired volunteer medical worker license to any person that:

- held an active health care provider license within 10 years prior to his or her initial application for the retired volunteer medical worker license;

- does not have any restrictions to practice due to violations of the Uniform Disciplinary Act; and
- registers with a local emergency services or management organization affiliated with the Emergency Management Division of the Military Department.

Retired volunteer medical workers must be supervised and may only perform the duties that were associated with their practice prior to retirement. They are required to maintain continuing competency requirements established by the Secretary, and they are subject to the Uniform Disciplinary Act. The cost of regulating volunteer medical workers is to be borne equally by license holders across all health professions.

An individual who holds a volunteer medical worker license and is registered as an emergency worker is considered a "covered volunteer." Covered volunteers, their supervisors, health care facilities, property and vehicle owners, local organizations that register covered volunteers, and state and local government entities are immune from liability for the acts or omissions of a covered volunteer while providing assistance or transportation during a disaster or participating in an approved training or exercise in preparation for an emergency or disaster. The immunity applies when the covered volunteer was acting without compensation, within the scope of his or her assigned duties, and under the direction of the local organization with which he or she had been registered. The immunity does not apply to acts of gross negligence or willful misconduct.

Votes on Final Passage:

House	96	0	
House	98	0	
Senate	47	0	(Senate amended)
House	97	0	(House concurred)

Effective: June 7, 2006

HB 1966
C 271 L 06

Classifying identity theft as a crime against persons.

By Representatives Ericks, O'Brien, Lovick, Strow, Haler, Takko, Morrell, Nixon, Campbell, McIntire, Conway, Santos, Chase and Moeller.

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

Background: Classification of Crimes. In general, crimes are classified by statute as felonies, misdemeanors, and gross misdemeanors. Felonies are further classified by statute as class A, class B, or class C felonies, and these designations determine maximum sentences of imprisonment and monetary penalties. If an act is prohibited by statute but no penalty for the violation is specifically imposed, the crime is deemed a misdemeanor.

Crimes may be further designated by statute as crimes against persons or crimes against property. If a crime is designated as a crime against persons, additional restrictions may be imposed on the convicted person at sentencing. Such restrictions include that the convicted person may not have his or her record of conviction cleared, may be subject to community placement or community custody, and may not qualify to earn up to 50 percent of earned release time.

Prosecutional Guidelines. The Sentencing Reform Act (SRA) includes guidelines for prosecutors to use when determining whether or not to prosecute a crime. The guidelines distinguish between two categories of crimes: crimes against persons and crimes against property/other crimes. Specific crimes are listed under each category of crimes. For example, the guidelines include the following crimes in the crimes against persons category: murder, assault, rape, first and second degree robbery, first degree arson, first and second degree extortion, and stalking. The crimes against property/other crimes category includes such crimes as: first and second degree theft, first and second degree possession of stolen property, first and second degree malicious mischief, and escape from community custody.

Under these guidelines, a prosecuting attorney may decline to prosecute any crime, even though technically sufficient evidence to prosecute exists, in situations where prosecution would serve no public purpose, would defeat the underlying purpose of the law in question, or would result in decreased respect for the law. Additional guidelines are provided regarding the decision to file and prosecute a crime. For example:

- Crimes against persons will be filed if sufficient admissible evidence exists, which, when considered with the most plausible, reasonably foreseeable defense that could be raised under the evidence, would justify conviction by a reasonable and objective fact-finder.
- Property crimes will be filed if the admissible evidence is of such convincing force as to make it probable that a reasonable and objective fact-finder would convict after hearing all the admissible evidence and the most plausible defense that could be raised.

The courts have ruled that the SRA's prosecuting guidelines are merely guidelines for making filing and prosecuting decisions, and the guidelines do not establish whether a specific crime is, in fact, a crime against persons or a crime against property. If a crime is not designated by statute as either a crime against persons or a property crime, the courts will conduct this independent analysis on a case-by-case basis.

Identity Theft. Identity theft in the first or second degree is not designated by statute as either a crime against persons or a property crime.

Identity theft in the first degree is a class B felony,

seriousness level of IV. Identity theft in the first degree is committed when a person knowingly:

- obtains, possesses, uses, or transfers a means of identification or financial information of another person, living or dead, with the intent to commit, or to aid or abet, any crime; and
- obtains an aggregate total of credit, money, goods, services, or anything else of value in excess of $1,500 in value.

Identity theft in the second degree is a class C felony, seriousness level of II. Identity theft in the second degree is committed when a person knowingly:

- obtains, possesses, uses, or transfers a means of identification or financial information of another person, living or dead, with the intent to commit, or to aid or abet, any crime; and
- obtains an aggregate total of credit, money, goods, services, or anything else of value of less than $1,500; or
- when no credit, money, goods, services, or anything of value is obtained.

Identity theft is not committed when a person obtains another person's driver's license or other form of identification for the sole purpose of misrepresenting his or her age.

Summary: The crimes of identity theft in the first and second degree are categorized as "crimes against persons" within the prosecuting standards and guidelines section of the SRA.

Votes on Final Passage:

House	94	0
House	96	0
Senate	49	0

Effective: June 7, 2006

2SHB 2002
C 266 L 06

Authorizing limited continuing foster care and support services up to age twenty-one.

By House Committee on Appropriations (originally sponsored by Representatives Dickerson, Roberts, Kagi, Kenney and Santos).

House Committee on Children & Family Services
House Committee on Appropriations
Senate Committee on Human Services & Corrections
Senate Committee on Ways & Means

Background: If there are allegations of abandonment, abuse or neglect, or no parent who is capable of caring for a child, the state may investigate the allegations and initiate a dependency proceeding in juvenile court. If the court finds the statutory requirements have been met, the court will find the child to be a dependent of the state.

Whenever the court finds a child to be a dependent, the court will enter a dispositional plan for the case which will include an order for the placement of the child either within the home or outside the home. If the child is placed outside the home, he or she may be placed with a relative or in non-relative foster care.

A child may remain in foster care until the age of 18. However, a youth may be permitted to remain in foster care or group care through age 20 to enable the youth to complete his or her high school or vocational school program.

Summary: The age limitations are removed for foster youth who participate in a high school academic or vocational program.

Beginning in 2006, the Department of Social and Health Services (DSHS) is granted authority to allow up to 50 youth reaching 18 years of age to continue in foster care or group care as needed to participate in or complete a post-high school academic or vocational program and to receive necessary support and transition services. In 2007 and 2008, 50 additional youth per year may be permitted to continue to remain in foster or group care after reaching the age of 18 as needed to complete a post-high school academic or vocational program.

To be eligible for continued foster care and services after age 18, the youth must be actively enrolled in a post high school academic or vocational program and must maintain a 2.0 grade point average. A youth who remains eligible for such placement and services pursuant to DSHS rules may continue in foster care or group care until the youth reaches his or her 21st birthday.

Nothing in the act should be construed as creating any of the following:

1) an entitlement to services;
2) judicial authority to extend the jurisdiction of Juvenile Court under a dependency proceeding to a youth who has turned 18 years of age or to order the provision of services to the youth; or
3) a private right of action or claim on the part of any individual, entity, or agency against the DSHS or any contractor of the DSHS.

The DSHS is authorized to adopt rules establishing eligibility for independent living services and placement for youths pursuant to the act. The DSHS may not refer cases involving youth between the ages of 18 and 21 to the Division of Child Support.

Upon approval by the Washington State Institute for Public Policy (WSIPP) board, the WSIPP is required to conduct a study on the outcomes for foster youth who receive continued support, as well as any savings to the state. The WSIPP is permitted to receive non-state funding to conduct the study.

Votes on Final Passage:

House	97	1	
Senate	45	0	(Senate amended)
House	96	1	(House concurred)

Effective: June 7, 2006

SHB 2033
C 272 L 06

Modifying the allocation of printing and publishing income for municipal business and occupation taxes.

By House Committee on Finance (originally sponsored by Representatives McIntire, Orcutt, Conway, Hunter, Chase and Santos).

House Committee on Finance
Senate Committee on Government Operations & Elections

Background: Municipal business and occupation taxes. Thirty-seven cities impose business and occupation (B&O) taxes on the gross receipts of activities conducted by businesses without any deduction for the costs of doing business. The Legislature limited city B&O taxes to a maximum rate of 0.2 percent in 1982, but higher rates are allowed if approved by the voters in the city, or if a higher rate was in effect prior to January 1, 1982. For cities that increase tax rates or that impose a B&O tax for the first time after April 22, 1983, the jurisdiction must provide for a referendum procedure to apply to the ordinance imposing or increasing the tax.

In 2003, legislation was enacted that requires the Association of Washington Cities (AWC) to adopt a model ordinance that provides a more uniform system of municipal B&O taxes. Cities imposing B&O taxes after 2004 must adopt the provisions of the ordinance.

The model ordinance that AWC adopted pursuant to the 2003 legislation includes several business activity classifications for the purpose of applying the tax, including extracting, manufacturing; wholesaling; retailing of goods, retailing of services; printing or publishing, processing or extracting for hire; or other (service) activities.

In addition to the model ordinance requirement, the 2003 legislation requires that by January 2008 all cities that impose gross receipts B&O taxes allow businesses to apportion income for tax purposes. For activities other than services or income from royalties, income is to be apportioned based on location of the activity. For sales of tangible personal property, apportionment is based on the location of delivery to the buyer. With respect to income from royalties, income is apportioned to the commercial domicile of the taxpayer. Under the Department of Revenue's rules and tax law in general, the commercial domicile is the principal place from which the trade or business of the taxpayer is directed or managed and is not limited to locations within Washington.

Printing and publishing. Many publishers receive income from readers' subscriptions. Under subscription agreements, the newspaper or periodical is generally delivered to the reader at a location specified by the reader, often the residence or place of business of the reader.

Summary: Cities that impose B&O taxes after 2007 are required for the purposes of apportionment to allow businesses to allocate income from the activities of printing or publishing to the principal place in Washington from which the business is directed or managed.

Votes on Final Passage:

House	97	0
House	95	0
Senate	47	0

Effective: January 1, 2008

ESHB 2056
C 364 L 06

Regulating recreational vehicle shows.

By House Committee on Commerce & Labor (originally sponsored by Representatives Conway and Wood).

House Committee on Commerce & Labor
Senate Committee on Labor, Commerce, Research & Development

Background: Motor vehicles, miscellaneous vehicles, and mobile home and travel trailer dealers (dealers) are regulated by the Department of Licensing (Department). Dealers are required to file a surety bond with the Department prior to obtaining a dealer's license and must meet certain contractual and record keeping requirements prior to and for a certain period after obtaining their licence. Additionally, dealers must identify an established place of business, and advise the Department of the names and locations of, and any subsequent changes in, their established place of business after obtaining their license.

An established place of business requires a permanent, enclosed, commercial building located within Washington easily accessible at all reasonable times. Additionally, dealers must meet various requirements with regard to their place of business such as compliance with the terms of all applicable building codes and regulatory ordinances, and they must keep the building open to the public so that the public may contact the dealer or the dealer's salespersons at all reasonable times. Mobile offices may be used under certain conditions, and manufacturers and sales promotional organizations for particular vehicle brands may maintain factory branches for the purposes of selling vehicles to distributors, wholesalers, or dealers.

During periods where dealers are conducting business for specific purposes, and are physically and geographically separated from their established or principal place of business, a licensed dealer may secure a temporary subagency license. No more than six temporary subagency licenses are issued to licensees in any 12-month period.

Violations of the vehicle dealer provisions are per se

violations of the Consumer Protection Act (CPA). Under the CPA, a court may impose civil penalties in the amount of $2,000 per violation or order restitution to injured parties, or court costs and attorney fees, or an injunction.

Summary: Specific requirements related to temporary subagency permits for recreational vehicle dealers are established.

Recreational Vehicles. The term "recreational vehicle" is defined to include travel trailers, motor homes, truck campers, or camping trailers that are primarily designed and used as temporary living quarters, and are either self propelled or mounted behind another vehicle. Recreational vehicles do not include vehicles that are used as primary residences and are immobilized or permanently affixed to a mobile home lot.

Temporary Subagency Permits for Recreational Vehicles. Before the Department may issue a temporary subagency license a recreational vehicle dealer must submit a manufacturers' written authorization for the sale. The recreational vehicle dealer must specify the dates of the show, the location of the show, and the manufacturers' brand or model names of the vehicles.

For events with three or fewer recreational vehicle dealer participants, the number of temporary subagency licenses that may be issued to licensees in any 12-month period is reduced to two. For events where there are four or more recreational dealer participants, up to six temporary subagency licenses may be issued to a recreational dealer within a 12-month period.

Additional limitations for recreational vehicle dealers are also established. The Department may issue a temporary subagency license for the sale of used recreational vehicles only where the location of the recreational vehicle show is within 50 miles of the dealer's established place of business. If the location of the show is more than 50 miles from the dealer's established place of business, the vehicles must be new and within the factory designated territory for the brand.

Where three or fewer dealers participate in a show under a temporary subagency license, each dealer must conspicuously, in specified size and manner, include the dealer's business name, the location of the business, the brand or model names of the recreational vehicles for sale, and whether the vehicles are new or used in all advertising and promotional materials.

Violations. A violation of the requirements for recreational vehicle sales is a violation of the Consumer Protection Act.

Votes on Final Passage:

House	96	1
House	94	3
Senate	45	0

Effective: June 7, 2006

SHB 2155
C 199 L 06

Regarding preservation of state publications by the state library services.

By House Committee on State Government Operations & Accountability (originally sponsored by Representatives Lantz and Shabro; by request of Secretary of State).

House Committee on State Government Operations & Accountability
House Committee on Appropriations
Senate Committee on Government Operations & Elections
Senate Committee on Ways & Means

Background: The state Publications Distribution Center (Center) was established in 1963 as part of the State Library to serve as the official repository of state publications. Every state agency must promptly deposit copies of its publications with the Center. The Secretary of State may regulate how many copies of each publication are submitted.

The publications include reports, periodicals, magazines, books, pamphlets, and leaflets issued by the state, the Legislature, constitutional officers, or other state agencies supported by state funds, not including typewritten correspondence and interoffice memoranda. The Center may enter into contracts with libraries to serve as depositories of state publications to improve public access.

In addition to state publications being sent to the distribution center of the State Library, copies of state publications must also be sent to the Governor and the Legislature as required by law. Laws pertaining to state publications do not contain any provisions for electronic records.

Summary: The State Library must ensure permanent public access to state government publications, regardless of the format. "Electronic repository" is defined as a collection of publicly accessible electronic publications stored in a secure digital environment with redundant backup to preserve the collection, and "format" is any media used in the publication of state information including electronic, print, audio, visual, and microfilm. The definition of "state publication" is revised to include information published by state agencies, regardless of format, intended for distribution to state government or the public.

State agencies must submit copies of published information that qualifies as state publications to the State Library. If the publication is in print format only, the agency must provide a minimum of two copies of the publication to the State Library. The agency may provide more copies for the State Library to distribute to additional depository libraries. If the publication is in electronic format only, the agency must provide a copy of the

publication to the State Library. If the publication is available in both print and electronic format, the agency must provide an electronic copy and two print copies. Each state agency will provide the State Library with an annual list of all the publications the agency made available to the public and to state government during the preceding year. The list includes publications provided in print or electronic formats. State agencies may elect to have copies of state publications printed by the public printer delivered directly to the State Library.

Votes on Final Passage:

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

Effective: June 7, 2006

SHB 2233
C 229 L 06

Mandating that a percentage of tuition waivers go to veterans.

By House Committee on Higher Education & Workforce Education (originally sponsored by Representatives Kristiansen, B. Sullivan, Cox, Sells, Woods, Rodne, Bailey, Pearson, Strow, Campbell, Serben, O'Brien, Ahern, Kretz and Murray).

House Committee on Higher Education & Workforce Education
Senate Committee on Early Learning, K-12 & Higher Education

Background: Veterans Qualifying Under State Law. Institutions of higher education may waive all or a portion of tuition and fees for an eligible veteran or National Guard member, defined as a person who:

- has a domicile in Washington;
- was an active or reserve member of the United States military or naval forces or a National Guard member called to active duty;
- served in active federal service;
- served in a war or conflict fought on foreign soil or in another location in support of those serving on foreign soil or in international waters; and
- if discharged, received an honorable discharge.

Tuition waivers are also allowed for:

- a child and the spouse of an eligible veteran (or National Guard member) who became totally disabled while engaged in active federal military or naval service, or who is determined by the federal government to be a prisoner of war or missing in action; and
- a child and the surviving spouse of an eligible veteran (or National Guard member) who lost his or her life while engaged in active federal military or naval service. Upon remarriage, the surviving spouse is no longer eligible for a waiver.

The institutions may also offer waivers to a military or naval veteran who resides in Washington but who did not serve on foreign soil or in international waters or in another location in support of those serving on foreign soil or in international waters, but no state funding support is provided for these waivers.

Tuition Waivers. Tuition waivers offered in 2003-04 totaled $86 million at the four-year institutions and $66.4 million at the community colleges.

Summary: The Legislature intends to make tuition waivers available to all eligible admitted veterans. The institutions of higher education must engage in outreach activities to increase the number of veterans who receive tuition waivers. Institutions of higher education must revise their applications for admission to provide applicants with the opportunity to indicate whether they are veterans who need assistance. Veterans who indicate a need for assistance will be encouraged to utilize any funds available to them through the Montgomery GI Bill prior to providing them with a tuition waiver.

Votes on Final Passage:

House	98	0	
Senate	44	0	(Senate amended)
House	95	0	(House concurred)

Effective: June 7, 2006

2SHB 2292
C 8 L 06

Addressing health care liability reform.

By House Committee on Judiciary (originally sponsored by Representatives Lantz, Cody, Campbell, Kirby, Flannigan, Williams, Linville, Springer, Clibborn, Wood, Fromhold, Morrell, Hunt, Moeller, Green, Kilmer, Conway, O'Brien, Sells, Kenney, Kessler, Chase, Upthegrove, Ormsby, Lovick, McCoy and Santos).

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

Background: The Legislature has considered a number of legislative proposals relating to medical malpractice over the past several years. These proposals have included a wide variety of issues that fall into three main areas designated as "patient safety," "insurance industry reform," and "civil liability reform."

Patient Safety. *Statements of Apology.* Under both a statute and a court rule, evidence of furnishing or offering to pay medical expenses needed as the result of an injury is not admissible in a civil action to prove liability for the injury. In addition, a court rule provides that evidence of offers of compromise are not admissible to prove liability for a claim. Evidence of conduct or statements made in compromise negotiations are likewise not

admissible.

In 2002, the Legislature passed legislation that provides that an expression of sympathy relating to the pain, suffering, or death of an injured person is inadmissible in a civil trial. A statement of fault, however, is not made inadmissible under this provision.

Reports of Unprofessional Conduct. The Uniform Disciplinary Act (UDA) gives immunity to any person who, in good faith, either submits a written complaint to a disciplining authority charging a health care professional with unprofessional conduct or reports information to a disciplining authority indicating that a provider may not be able to practice his or her profession with reasonable skill and safety because of a mental or physical condition.

Another provision of law gives immunity specifically to physicians, dentists, and pharmacists who in good faith file charges or present evidence of incompetency or gross misconduct against another member of their profession before the Medical Quality Assurance Commission, the Dental Quality Assurance Commission, or the Board of Pharmacy.

Medical Quality Assurance Commission Membership (MQAC). The MQAC is responsible for the regulation of physicians and physician assistants. This constitutes approximately 23,000 credentialed health care professionals. The MQAC has 19 members consisting of 13 licensed physicians, two physician assistants, and four members of the public.

Health Care Provider Discipline. The UDA governs disciplinary actions for all 57 categories of credentialed health care providers. The UDA defines acts of unprofessional conduct, establishes sanctions for such acts, and provides general procedures for addressing complaints and taking disciplinary actions against a credentialed health care provider. Responsibilities in the disciplinary process are divided between the Secretary of Health and the 16 health profession boards and commissions according to the health care provider's profession and the relevant step in the disciplinary process.

Upon a finding of an act of unprofessional conduct, the Secretary or the board or commission decides which sanctions should be ordered. These sanctions include: revocation of a license, suspension of a license, restriction of the practice, mandatory remedial education or treatment, monitoring of the practice, censure or reprimand, conditions of probation, payment of a fine, denial of a license request, corrective action, refund of billings, and surrender of the license.

Disclosure of Adverse Events. A hospital is required to inform the Department of Health (DOH) when certain events occur in its facility. These events include: unanticipated deaths or major permanent losses of function; patient suicides; infant abductions or discharges to the wrong family; sexual assault or rape; transfusions with major blood incompatibilities; surgery performed on the wrong patient or site; major facility system malfunctions; or fires affecting patient care or treatment. A hospital must report this information within two business days of learning of the event.

Coordinated Quality Improvement Programs. Hospitals are required to maintain quality improvement programs to improve the quality of health care services and prevent medical malpractice. Quality improvement programs review medical staff privileges and employee competency, collect information related to negative health care outcomes, and conduct safety improvement activities. Medical facilities other than hospitals, and health care provider groups consisting of five or more providers, also may maintain quality improvement programs approved by the DOH.

Insurance Industry Reform. *Medical Malpractice Closed Claim Reporting.* The Insurance Commissioner (Commissioner) is responsible for the licensing and regulation of insurance companies doing business in this state. This includes insurers offering coverage for medical malpractice. There is no statutory requirement for insurers to report to the Commissioner information about medical malpractice claims, judgments, or settlements.

Underwriting Standards. Underwriting standards are used by insurers to evaluate and classify risks, assign rates and rate plans, and determine eligibility for coverage or coverage limitations. Insurers, including medical malpractice insurers, are not required to file their underwriting standards with the Commissioner nor to notify an insured of the significant risk factors that lead to an underwriting action.

Cancellation or Non-Renewal of Liability Insurance Policies. With certain exceptions, state insurance law requires insurance policies to be renewable. An insurer is exempt from this requirement if the insurer provides the insured with a cancellation notice that is delivered or mailed to the insured no fewer than 45 days before the effective date of the cancellation. Shorter notice periods apply for cancellation based on nonpayment of premiums (10 days) and for cancellation of fire insurance policies under certain circumstances (five days). The written notice must state the actual reason for cancellation of the insurance policy.

Prior Approval of Medical Malpractice Insurance Rates. The forms and rates of medical malpractice polices are "use and file." After issuing any policy, an insurer must file the forms and rates with the Commissioner within 30 days. Rates and forms are subject to public disclosure when the filing becomes effective. Actuarial formulas, statistics, and assumptions submitted in support of the filing are not subject to public disclosure.

Health Care Liability Reform. *Statutes of Limitations and Repose.* A medical malpractice action must be brought within time limits specified in statute, called the statute of limitations. Generally, a medical malpractice

action must be brought within three years of the act or omission or within one year of when the claimant discovered or reasonably should have discovered that the injury was caused by the act or omission, *whichever period is longer.*

The statute of limitations is tolled during minority. This means that the three-year period does not begin to run until the minor reaches the age of 18. An injured minor will therefore always have until at least the age of 21 to bring a medical malpractice action.

The statute also provides that a medical malpractice action may never be commenced more than eight years after the act or omission. This eight-year outside time limit for bringing an action is called a "statute of repose." In 1998 the Washington Supreme Court held the eight-year statute of repose unconstitutional on equal protection grounds.

Certificate of Merit. A lawsuit is commenced either by filing a complaint or by service of summons and a copy of the complaint on the defendant. The complaint is the plaintiff's statement of his or her claim against the defendant. The plaintiff is generally not required to plead detailed facts in the complaint; rather, the complaint may contain a short and plain statement that sets forth the basic nature of the claim and shows that the plaintiff is entitled to relief.

There is no requirement that a plaintiff instituting a civil action file an affidavit or other document stating that the action has merit. However, a court rule requires that the pleadings in a case be made in good faith. An attorney or party signing the pleading certifies that he or she has objectively reasonable grounds for asserting the facts and law. The court may assess attorneys' fees and costs against a party if the court finds that the pleading was made in bad faith or to harass or cause unnecessary delay or needless expense.

Voluntary Arbitration. Parties to a dispute may voluntarily agree in writing to enter into binding arbitration to resolve the dispute. A procedural framework for conducting the arbitration proceeding is provided in statute, including provisions relating to appointment of an arbitrator, attorney representation, witnesses, depositions, and awards. The arbitrator's decision is final and binding on the parties, and there is no right of appeal. A court's review of an arbitration decision is limited to correction of an award or vacation of an award under limited circumstances.

Pre-Suit Notice and Mandatory Mediation. Generally, a plaintiff does not have to provide a defendant with prior notice of his or her intent to institute a civil suit. In suits against the state or a local government, however, a plaintiff must first file a claim with the governmental entity that provides notice of specified information relating to the claim. The plaintiff may not file suit until 60 days after the claim is filed with the governmental entity.

Medical malpractice claims are subject to mandatory mediation in accordance with court rules adopted by the Washington Supreme Court. The court rule provides deadlines for commencing mediation proceedings, the process for appointing a mediator, and the procedure for conducting mediation proceedings. The rule allows mandatory mediation to be waived upon petition of any party that mediation is not appropriate.

Collateral Sources. In the context of tort actions, "collateral sources" are sources of payments or benefits available to the injured person that are totally independent of the tortfeasor. Examples of collateral sources are health insurance coverage, disability insurance, or sick leave. Under the common law "collateral source rule," a defendant is barred from introducing evidence that the plaintiff has received collateral source compensation for the injury.

The traditional collateral source rule has been modified in medical malpractice actions. In a medical malpractice action, any party may introduce evidence that the plaintiff has received compensation for the injury from collateral sources, except those purchased with the plaintiff's assets (e.g., insurance plan payments). The plaintiff may present evidence of an obligation to repay the collateral source compensation.

Frivolous Lawsuits. Under both statute and court rule, the court may sanction a party or attorney for bringing a frivolous suit or asserting a frivolous claim or defense. Under the statute, which applies to all civil actions, if the court finds that the action, or any claim or defense asserted in the action, was frivolous and advanced without reasonable cause, the court may require the non-prevailing party to pay the prevailing party reasonable expenses and attorneys' fees incurred in defending the claim or defense.

Summary: The Legislature finds that addressing the issues of consumer access to health care and the increasing costs of medical malpractice insurance requires comprehensive solutions that encourage patient safety, increase oversight of medical malpractice insurance, and make the civil justice system more understandable, fair, and efficient.

Patient Safety. *Statements of Apology*. In a medical negligence action, a statement of fault, apology, or sympathy, or a statement of remedial actions that may be taken, is not admissible as evidence in a civil action if the statement was conveyed by a health care provider to the injured person or certain family members within 30 days of the act or omission, or the discovery of the act or omission, that is the basis for the claim.

Reports of Unprofessional Conduct. The statute granting immunity to a physician, dentist, or pharmacist who files charges or presents evidence about the incompetence or misconduct of another physician, dentist, or pharmacist is expanded to apply to any health care professional subject to the Uniform Disciplinary Act and to apply to reports or evidence relating to unprofessional

conduct or the inability to practice with reasonable skill and safety because of a physical or mental condition. A health care professional who prevails in a civil action on the good faith defense provided in this immunity statute is entitled to recover expenses and reasonable attorneys' fees incurred in establishing the defense.

Medical Quality Assurance Commission (MQAC). The public membership component of the MQAC is increased from four to six members, and at least two of the public members must not be representatives of the health care industry.

Health Care Provider Discipline. When imposing a sanction against a health care provider, a health profession disciplining authority may consider prior findings of unprofessional conduct, stipulations to informal disposition, and the actions of other Washington or out-of-state disciplining authorities.

Disclosure of Adverse Events. A medical facility must notify the Department of Health (DOH) within 48 hours of confirmation that an adverse event has occurred. The medical facility must submit a subsequent report of the adverse event to the DOH within 45 days. The report must include a root cause analysis of the adverse event and a corrective action plan, or an explanation of the reasons for not taking corrective action. Facilities and health care workers may report the occurrence of "incidents." "Adverse event" is defined as the list of serious reportable events adopted by the National Quality Forum in 2002. "Incident" is defined as an event involving clinical care that could have injured the patient or that resulted in an unanticipated injury that does not rise to the level of an adverse event.

The DOH must contract with an independent entity to develop a secure internet-based system for the reporting of adverse events and incidents. The independent entity is responsible for receiving and analyzing the notifications and reports and developing recommendations for changes in health care practices for the purpose of reducing the number and severity of adverse events. The independent entity must report to the Legislature and the Governor on an annual basis regarding the number of adverse events and incidents reported and the information derived from the reports.

Coordinated Quality Improvement Programs. The types of programs that may apply to the DOH to become coordinated quality improvement programs are expanded to include consortiums of health care providers that consist of at least five health care providers.

Prescription Legibility. Prescriptions for legend drugs must either be hand-printed, typewritten, or generated electronically.

Insurance Industry Reform. *Medical Malpractice Closed Claim Reporting*. Self-insurers and insuring entities that write medical malpractice insurance are required to report medical malpractice closed claims that are closed after January 1, 2008, to the Office of the Insurance Commissioner (Commissioner). Closed claims reports must be filed annually by March 1, and must include data for closed claims for the preceding year. The reports must contain specified data relating to: the type of health care provider, specialty, and facility involved; the reason for the claim and the severity of the injury; the dates when the event occurred, the claim was reported to the insurer, and the suit was filed; the injured person's age and sex; and information about the settlement, judgment, or other disposition of the claim, including an itemization of damages and litigation expenses.

If a claim is not covered by an insuring entity or self-insurer, the provider or facility must report the claim to the Commissioner after a final disposition of the claim. The Commissioner may impose a fine of up to $250 per day against an insuring entity that fails to make the required report. The DOH may require a facility or provider to take corrective action to comply with the reporting requirements.

A claimant or the claimant's attorney in a medical malpractice action that results in a final judgment, settlement, or disposition, must report to the Commissioner certain data, including the date and location of the incident, the injured person's age and sex, and information about the amount of judgment or settlement, court costs, attorneys' fees, or expert witness costs incurred in the action.

The Commissioner must use the data to prepare aggregate statistical summaries of closed claims and an annual report of closed claims and insurer financial reports. The annual report must include specified information, such as: trends in frequency and severity of claims; types of claims paid; a comparison of economic and non-economic damages; a distribution of allocated loss adjustment expenses; a loss ratio analysis for medical malpractice insurance; a profitability analysis for medical malpractice insurers; a comparison of loss ratios and profitability; and a summary of approved medical malpractice rate filings for the prior year, including analyzing the trend of losses compared to prior years.

Any information in a closed claim report that may result in the identification of a claimant, provider, health care facility, or self-insurer is exempt from public disclosure.

Underwriting Standards. During the underwriting process, an insurer may consider the following factors only in combination with other substantive underwriting factors: (1) that an inquiry was made about the nature or scope of coverage; (2) that a notification was made about a potential claim that did not result in the filing of a claim; or (3) that a claim was closed without payment. If an underwriting activity results in a higher premium or reduced coverage, the insurer must provide written notice to the insured describing the significant risk factors that led to the underwriting action.

Cancellation or Non-Renewal of Liability Insurance

Policies. The mandatory notice period for cancellation or non-renewal of medical malpractice liability insurance policies is increased from 45 days to 90 days. An insurer must actually deliver or mail to the insured a written notice of the cancellation or non-renewal of the policy, which must include the actual reason for the cancellation or non-renewal and the significant risk factors that led to the action. For policies the insurer will not renew, the notice must state that the insurer will not renew the policy upon its expiration date.

Prior Approval of Medical Malpractice Insurance Rates. Medical malpractice rate filings and form filings are changed from the current "use and file" system to a prior approval system. An insurer must, prior to issuing a medical malpractice policy, file the policy rate and forms with the Commissioner. The Commissioner must review the filing, which cannot become effective until 30 days after its filing.

Health Care Liability Reform. *Statutes of Limitations and Repose*. Tolling of the statute of limitations during minority is eliminated.

The eight-year statute of repose is re-established. Legislative intent and findings regarding the justification for a statute of repose are provided in response to the Washington Supreme Court's decision overturning the statute of repose.

Certificate of Merit. In medical negligence actions involving a claim of a breach of the standard of care, the plaintiff must file a certificate of merit at the time of commencing the action, or no later than 45 days after filing the action if the action is filed 45 days prior to the running of the statute of limitations. The certificate of merit must be executed by a qualified expert and state that there is a reasonable probability that the defendant's conduct did not meet the required standard of care based on the information known at the time. The court for good cause may grant up to a 90-day extension for filing the certificate of merit.

Failure to file a certificate of merit that complies with these requirements results in dismissal of the case. If a case is dismissed for failure to comply with the certificate of merit requirements, the filing of the claim may not be used against the health care provider in liability insurance rate setting, personal credit history, or professional licensing or credentialing.

Voluntary Arbitration. A new voluntary arbitration system is established for disputes involving alleged professional negligence in the provision of health care. The voluntary arbitration system may be used only where all parties have agreed to submit the dispute to voluntary arbitration once the suit is filed, either through the initial complaint and answer, or after the commencement of the suit upon stipulation by all parties.

The maximum award an arbitrator may make is limited to $1 million for both economic and non-economic damages. In addition, the arbitrator may not make an award of damages based on the "ostensible agency" theory of vicarious liability.

The arbitrator is selected by agreement of the parties, and the parties may agree to more than one arbitrator. If the parties are unable to agree to an arbitrator, the court must select an arbitrator from names submitted by each side. A dispute submitted to the voluntary arbitration system must follow specified time periods that will result in the commencement of the arbitration no later than 12 months after the parties agreed to submit to voluntary arbitration.

The number of experts allowed for each side is generally limited to two experts on the issue of liability, two experts on the issue of damages, and one rebuttal expert. In addition, the parties are generally entitled to only limited discovery. Depositions of parties and expert witnesses are limited to four hours per deposition and the total number of additional depositions of other witnesses is limited to five per side, for no more than two hours per deposition.

There is no right to a trial de novo on an appeal of the arbitrator's decision. An appeal is limited to the bases for appeal provided under the current arbitration statute for vacation of an award under circumstances where there was corruption or misconduct, or for modification or correction of an award to correct evident mistakes.

Pre-Suit Notice and Mandatory Mediation. A medical malpractice action may not be commenced unless the plaintiff has provided the defendant with 90 days prior notice of the intention to file a suit. The 90-day notice requirement does not apply if the defendant's name is unknown at the time of filing the complaint.

The mandatory mediation statute is amended to require mandatory mediation of medical malpractice claims unless the claim is subject to either mandatory or voluntary arbitration. Implementation of the mediation requirement contemplates the adoption of a rule by the Supreme Court establishing a procedure for the parties to certify the manner of mediation used by the parties.

Collateral Sources. The collateral source payment statute is amended to remove the restriction on presenting evidence of collateral source payments that come from insurance purchased by the plaintiff. The plaintiff, however, may introduce evidence of amounts paid to secure the right to the collateral source payments (e.g., premiums), in addition to introducing evidence of an obligation to repay the collateral source compensation.

Frivolous Lawsuits. An attorney in a medical malpractice action, by signing and filing a claim, counterclaim, cross claim, or defense, certifies that the claim or defense is not frivolous. An attorney who signs a filing in violation of this section is subject to sanctions, including an order to pay reasonable expenses and reasonable attorneys' fees incurred by the other party.

Votes on Final Passage:

House	54	43	
Senate	48	0	(Senate amended)
House	82	15	(House concurred)

Effective: June 7, 2006
July 1, 2006 (Sections 112 and 210)

EHB 2322
C 223 L 06

Limiting the phosphorus content in dishwashing detergent.

By Representative Ormsby.

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

Background: Phosphorous is a naturally occurring element that stimulates plant growth. When introduced into freshwater, phosphorous promotes growth of weeds and algae and can degrade water quality.

In 1993, legislation was enacted prohibiting the sale of laundry detergent that contains 0.5 percent or more phosphorous by weight and the sale of dishwashing detergent that contains more than 8.7 percent phosphorous by weight. The sale or distribution of detergents for commercial and industrial uses are exempt from the restriction.

Summary: The sale of dishwashing detergent that contains 0.5 percent or more phosphorous by weight is prohibited after July 1, 2008, in counties with populations greater than 180,000 and less than 220,000 and in counties with populations greater than 390,000 and less than 650,000. Three counties currently meet the population criteria as determined by the Office of Financial Management including Clark, Spokane, and Whatcom counties. Beginning July 1, 2010, the restriction on the sale of dishwashing detergent that contains more than 0.5 percent or more phosphorous by weight is effective statewide.

Votes on Final Passage:

House	78	19	
Senate	41	7	(Senate amended)
House	79	18	(House concurred)

Effective: June 7, 2006

HB 2328
C 109 L 06

Changing provisions relating to the insanity defense.

By Representatives Lantz and Priest.

House Committee on Judiciary
Senate Committee on Judiciary

Background: A criminal defendant who pleads not guilty by reason of insanity has the burden of proving by a preponderance of the evidence that because of a mental disease or defect at the time of the crime he or she was unable to perceive the nature and quality of the act charged or was unable to tell right from wrong with respect to the act.

The insanity defense is not a negation of any element of the crime charged. It is not a defense that is designed to raise a reasonable doubt about the prosecution's required proof of those elements. A successful insanity defense represents a determination that, because of his or her mental illness, a person should not be held criminally liable, even though he or she did commit the crime. However, a person acquitted of a crime because of insanity may be subject to involuntary commitment to a mental hospital if he or she is found to be dangerous.

Under statutorily prescribed procedures, whenever a person pleads not guilty by reason of insanity the court is to appoint at least two experts to examine the defendant's mental condition. At least one of the experts must be approved by the prosecution. The defendant is entitled to an attorney during the examination and may refuse to answer any question he or she believes may tend to be incriminating.

The Washington State Supreme Court has held, however, that neither the state nor federal Constitution's privilege against self-incrimination applies to these mental examinations. In a 2004 decision, the Court held that the statutory right to refuse to answer questions creates a privilege against self-incrimination different from and in addition to any right under either Constitution.

Either the defendant or the prosecution may engage experts to testify at trial about the defendant's mental state. However, an expert who has not personally examined the defendant cannot offer an opinion about the defendant's mental state at the time of the charged offense.

Summary: An insanity plea defendant's privilege against answering questions in a mental examination is removed. Such a defendant who refuses to answer questions during an examination may not present his or her own expert's testimony at trial.

These changes apply to mental examinations performed on or after the effective date of the act.

Votes on Final Passage:

House	98	0
Senate	47	0

Effective: June 7, 2006

HB 2330
C 143 L 06

Modifying provisions concerning the administration of a crab pot buoy tag program.

By Representatives Blake, Buck, Upthegrove, Linville, Sump and B. Sullivan.

House Committee on Natural Resources, Ecology & Parks
Senate Committee on Natural Resources, Ocean & Recreation

Background: There are two different closed commercial fisheries for Dungeness crabs in Washington. One fishery is operated for the Puget Sound, and the other is limited to coastal waters. To catch crabs commercially, Washington boats must have a license for the appropriate fishery.

Crabs are caught using crab pots. Each crab pot must be attached to a buoy and fished individually. In both fisheries, each buoy must be marked clearly with a tag that contains the name or license number of the person using that specific pot. The Department of Fish and Wildlife (Department) manages a buoy tag program in each fishery and is authorized to charge a fee to the holders of Dungeness crab licenses to pay for the production of the tags and the management of the tag programs. Each buoy tag costs 70 cents, paid in an annual fee. Revenue from the fees are deposited into either the Puget Sound Crab Pot Buoy Tag Account or the Washington Coastal Crab Pot Buoy Tag Account. These are non-appropriated accounts used to pay for the buoy tags and administration of the buoy tag programs.

The Crab Pot Buoy Tag Program began in the Puget Sound fishery in 2001 and in the coastal fishery in 2005. Coastal crab fishers from out-of-state are not required to pay the buoy tag fee for crab pots fished off Washington's coast. The Department estimates that there are about 15,000 such crab pots.

Summary: A buoy tag fee is charged to holders of out-of-state crab fishing licenses who participate in Washington's coastal fishery. Out-of-state crab fishers must purchase and place Washington buoy tags on their crab pots when fishing in the federal waters off the Washington coast.

Votes on Final Passage:

House	98	0
Senate	47	0

Effective: June 7, 2006

SHB 2333
C 9 L 06

Providing parity for home care agency workers.

By House Committee on Appropriations (originally sponsored by Representatives Green, Haler, Conway, Curtis, Fromhold, McDonald, Walsh, Strow, Sells, Campbell, Miloscia, Roach, P. Sullivan, Morrell, McDermott, Serben, Darneille, Appleton, Williams, Chase, Moeller, Hasegawa, Rodne, Linville, Santos, Springer, Wallace, Kenney, Cody, Ericksen, O'Brien, Wood, B. Sullivan, Simpson, Ericks, Ormsby and McCune).

House Committee on Appropriations
Senate Committee on Ways & Means

Background: The state contracts with agencies and individual home care workers to provide long-term care services to approximately 35,000 elderly and disabled clients who are eligible for publicly-funded services through the Department of Social and Health Services' (DSHS) Aging and Adult Services and Developmental Disabilities programs. Home care workers provide DSHS clients with personal care assistance with various tasks such as toileting, bathing, dressing, ambulating, meal preparation, and household chores.

Individual providers have collective bargaining rights under Initiative 775. The law explicitly provides that wages, benefits, and working conditions are determined solely through collective bargaining. The Governor must submit, as a part of the proposed biennial or supplemental operating budget submitted to the Legislature, a request for funds necessary to implement the compensation and fringe benefits provisions of a collective bargaining agreement or binding interest arbitration award entered into under the law. The Legislature must approve or reject the submission of the request for funds as a whole.

The 2005-07 budget: includes funding to provide individual home care workers wages of $9.20 per hour in fiscal year 2006 and an average wage of $9.45 per hour in fiscal year 2007 pursuant to a seniority wage scale; provides state contributions for health care coverage, vision, and dental benefits that average $506 per eligible worker per month; and provides paid vacation leave for every 50 hours worked in fiscal year 2007.

The collective bargaining law specifically applies to individual providers and does not include those home care workers employed by agency providers. Agency providers are reimbursed similarly to other vendors with whom the state contracts for publicly-funded human services. Vendor payment rates are established in the biennial operating budget. The enacted budget includes funding sufficient for provider payments of $15.28 per hour in fiscal year 2006 and $15.59 per hour in fiscal year 2007. The 2005 Legislature increased agency provider payment rates to reflect the hourly wage increase

negotiated by individual providers, but did not increase payment rates to include the seniority wage scale and vacation benefits that were awarded to individual providers. The state also subsidizes the cost of health care benefits for those agency home care workers employed through state contracts for at least 20 hours a week. Beginning in the 2005-07 biennium, a limit on the per worker per month state contribution to the cost of health care benefits is specified in the budget. In prior biennia, these payments were made on a defined benefit level basis, with the benefit level tied to the state's Basic Health Plan.

Summary: The Department of Social and Health Services (DSHS) must establish a formula to convert the cost of the compensation increases negotiated and funded by individual providers of home services into an hourly amount that will be added to the statewide agency home care provider vendor rate.

The formula must account for the increase in the average cost of worker's compensation for home care agencies and application of the increases identified in the hourly amount added to the agency provider vendor rate to all hours required to be paid, including travel time, of direct service workers under the wage and hour laws and associated employer taxes.

The DSHS's contribution rate for health care benefits, including but not limited to medical, dental, and vision benefits, will be paid to agency providers of home services at the same rate as negotiated and funded for individual providers.

For fiscal year 2007, the per-hour amount added to the home care agency vendor rate will be limited to the cost of a 2 cents per hour wage increase and the cost of annual leave benefits negotiated and funded for individual providers of home care services.

Votes on Final Passage:

House	98	0
Senate	46	0

Effective: July 1, 2006

HB 2338
C 21 L 06

Extending the mortgage lending fraud prosecution account.

By Representatives Kirby, Roach, Chase, Dickerson, Ericks, Simpson, Upthegrove and Schual-Berke; by request of Department of Financial Institutions.

House Committee on Financial Institutions & Insurance
Senate Committee on Financial Institutions, Housing & Consumer Protection

Background: In 2003, the Legislature created the Mortgage Lending Fraud Prosecution Account (Account), a specific fund to aid in the prosecution of consumer fraud in the mortgage lending process.

The Account is administered by the Department of Financial Institutions (DFI). Funds for the Account are generated by a $1 surcharge, assessed at the recording of a deed of trust. In order to defray the costs of collection, the county auditor may retain up to 5 percent of the funds collected. Once collected by a county, the funds must be transferred monthly to the State Treasurer who, in turn, must deposit the funds into the Account.

The DFI may use the Account to reimburse county prosecutors and the Attorney General for costs related to the investigation and prosecution of mortgage fraud cases. Reimbursable items include training costs for investigators and prosecutors and expenses related to investigation and litigation. County prosecutors may even seek recovery of salaries for members of their staff who were assigned to the prosecution of a particular case. The Director of the DFI (or designee) may authorize expenditures from the fund. The DFI is required to consult with the Attorney General and local prosecutors in developing guidelines for the distribution of the funds, which are to be used to enhance law enforcement capabilities at both the state and local level.

The DFI must make an annual report to the Legislature regarding the use of the funds in the Account.

The Mortgage Lending Fraud Prosecution Account, the surcharge, and the report expire on June 30, 2006.

Summary: The expiration dates of the Mortgage Lending Fraud Prosecution Account, the surcharge, and the report are delayed until June 30, 2011.

Votes on Final Passage:

House	98	0
Senate	46	0

Effective: June 7, 2006

EHB 2340
C 19 L 06

Regulating mortgage brokers and loan originators.

By Representatives Kirby, Roach, Chase, Kenney and Simpson; by request of Department of Financial Institutions.

House Committee on Financial Institutions & Insurance
House Committee on Appropriations
Senate Committee on Financial Institutions, Housing & Consumer Protection

Background: Licensure of Mortgage Brokers. In order to make a loan in Washington, mortgage brokers must be licensed. The license does not expire and is not renewed. Mortgage brokers must pay an annual fee to maintain licensure. If the fee is not paid, the Department of Financial Institutions (DFI) must initiate proceedings to revoke the license. Designated brokers of every licensee must complete continuing education requirements.

Requirements for mortgage brokers generally include honesty, veracity, provision of required disclosures, and compliance with appropriate state and federal laws and rules.

Loan Originator. Loan originators are employed or retained by or represent, a person required to have a mortgage broker license in the performance of specific activities relating to a residential mortgage loan. Loan originators are not licensed.

Sanctions. The Director of the DFI (Director) must enforce all laws and rules relating to the licensing of mortgage brokers. The Director may impose fines or order restitution. The Director may deny, suspend, or revoke licenses.

Compliance Examinations. The DFI may only examine the business of a mortgage broker once in the first two years of operation as a licensee. However, there has been no funding mechanism for these examinations and therefore no functioning program has been established.

Investigations. The DFI may, at any time, investigate complaints against a licensee or any other person in the business of mortgage brokering.

Cooperation with Examinations and Investigations. The Director or a designee may direct the production of materials relevant to the investigation or require a person to testify under oath. A subpoena may be issued if the materials are not produced or if a person does not testify after being ordered to do so. No person may remove, withhold, or destroy requested materials.

Mortgage Brokerage Commission. The Mortgage Brokerage Commission (Commission) advises the Director on the characteristics and needs of the mortgage brokerage profession. The Commission consists of five members appointed by the Director. At least three members must be mortgage brokers.

Summary: Licensure of Mortgage Brokers. *Applicant information.* In addition to information currently required in an application, mortgage broker applicants must provide their fingerprints, personal history, business record, and other information required by the Director. The Director must submit the information for a state and federal criminal history background check. The Director may receive nonconviction information but may only disseminate that information to criminal justice agencies.

License expiration and renewal. Mortgage broker licenses expire annually. The Director must adopt rules for the license renewal process.

Continuing education. The Director may allow outside professional organizations to provide continuing education to designated brokers. The Director may allow for reciprocity with other states' continuing education requirements.

Prohibited practices. Added to the list of prohibited practices is failure to comply with specific federal laws.

Loan Originators. *Definition*. The definition of loan originator is changed to include anyone who does (or is held out as able to):

- take a residential mortgage application from a broker; or
- offer or negotiate terms of a mortgage loan for direct or indirect compensation or the expectation of compensation.

Licensing. Loan originators must be licensed. The application must include the applicant's name, date of birth, social security number, fingerprints, personal history, business record, and other information required by the Director. The Director must submit information for a state and federal criminal history background check. The Director may receive nonconviction information but may only disseminate that information to criminal justice agencies.

The applicant must pay an application fee established by rule by the Director. The Director must adopt rules regarding procedures relating to incomplete applications. The Director must adopt rules regarding the content of a written examination.

The Director must issue the license if the application is complete, the applicant passed the written examination, and the fee is paid unless:

- the applicant has had a similar license revoked within seven years of the application;
- the applicant has been convicted of a gross misdemeanor regarding dishonesty or financial misconduct or felony within seven years of the application; or
- the applicant has not been able to demonstrate the character and general fitness required to warrant a belief that the business will be operated honestly and fairly.

Loan originator licenses expire and must be renewed. Loan originator licenses may not be assigned or transferred. Licensees seeking to renew their licenses must complete the required continuing education requirements. The continuing education requirements must be adopted by rule by the Director.

Prohibited practices. Loan originators are subject to the same prohibited practices as mortgage brokers. Loan originators may not accept any compensation from a borrower for the preparation, negotiation, and brokering of a loan. Loan originators may only take applications on behalf of one mortgage broker at a time. The mortgage broker must be clearly identified on the application.

Ability to contractually bind mortgage brokers. Contracts between a loan originator and a borrower must be in writing and contain the entire agreement. The contract is binding on the mortgage broker.

Sanctions. The Director may enforce all laws and rules relating to the licensing of mortgage brokers and loan originators. The Director may impose fines or order restitution. The Director may deny, suspend, or revoke a

license.

Compliance Examinations. The DFI may only examine the business of a mortgage broker once in the first five years of being licensed, including the licensing of a branch. The scope of the examination is limited to compliance with the laws and rules related to mortgage brokers. The scope or time-frame may be expanded upon the clear identification of a need to do so. The Director must establish rules regarding protocols of examination findings and corrective actions. The reports must include a process for clear notification of violations to the licensee and an opportunity for the licensee to respond.

The Director may consider reports made by an independent professional that cover the same subject as the examination and incorporate all or part of the independent report into the examination report. The Director may retain attorneys, auditors, or other professionals to aid in an investigation or examination.

Investigations. There does not have to be a complaint to enable the DFI to investigate a licensee or any other person in the business of mortgage brokering.

Cooperation with Examinations and Investigations. The Director or a designee may direct the production of materials relevant to the investigation or require testimony under oath of a person. A person who removes, withholds, or destroys requested materials is guilty of a class B felony or punishable by a fine of not more than $20,000 or both.

Mortgage Brokerage Commission. The Commission is expanded to seven members appointed by the Director. At least two members must be loan originators.

Annual Reports by Licensees. Annually, licensees must provide the Director with a report of mortgage broker activity. The Director may establish the format by rule. The report may only include the total number of closed loans and total dollar volume of closed loans originated by the mortgage broker in Washington. Any information that is a trade secret is exempt from public disclosure unless aggregated in a manner that the individual broker's information is not identifiable.

The Director may take the actions necessary to implement the act upon the date the act becomes effective.

Votes on Final Passage:

House	89	6
Senate	48	0

Effective: January 1, 2007

2SHB 2342
C 108 L 06

Establishing a health care declarations registry.

By House Committee on Appropriations (originally sponsored by Representatives Moeller, Appleton, Nixon, Hunt, Curtis, Lantz, Morrell, Springer, Wallace, Fromhold, Kagi, Roberts, Cody, Ericks, Green and Ormsby).

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

Background: There are several types of documents that individuals may use to declare their preferences for health care and mental health decisions in the event that they become incapacitated.

- An advance directive is a document that expresses an individual's preferences regarding the withholding or withdrawal of life-sustaining treatment if he or she is in a terminal condition or permanent unconscious state.
- A mental health advance directive is a document that either provides instructions or declares an individual's preferences regarding his or her mental health treatment in the event of incapacitation. These documents may also appoint another person to make decisions regarding mental health treatment on the individual's behalf in the event of incapacitation.
- A durable power of attorney for health care is a document that appoints an agent to provide informed consent for health care decisions on behalf of another individual.
- The Physician Orders for Life-Sustaining Treatment (POLST) form is a standardized form that is signed by an individual's physician or advanced registered nurse practitioner (ARNP) to instruct emergency medical personnel or staff in residential care settings on the type of care that an individual wishes to have in end of life situations.

In order to be valid, an advance directive or a mental health advance directive must be signed by an individual who is at least 18 years old and not incapacitated, there must be at least two neutral witnesses present, and it must be dated. Advance directives and mental health advance directives may be revoked according to statutorily prescribed procedures.

If a patient has an advance directive or a mental health advance directive, health care facilities must make these documents a part of the patient's medical records. If a health care facility or provider is unable or unwilling to comply with all or any part of an advance directive or a mental health advance directive, the patient, or his or her personal representative, must be promptly notified.

Summary: The Department of Health (Department) is directed to establish and maintain a statewide registry of health care declarations submitted by Washington residents on a secure web site. The Department may contract with another entity to perform these registry functions. The health care declarations that may be submitted include advance directives, durable powers of attorney for health care, mental health advance directives, and forms establishing physician orders for emergency medical service personnel.

Residents may either send the health care declarations to the Department to place in the registry or they may submit them directly to the registry in a digital format. The Department is not responsible for determining whether or not the health care declarations have been properly executed.

Individuals must have access to their health care declarations and the ability to revoke them at all times. Personal representatives, health care facilities, attending physicians, ARNPs, and health care providers acting under the direction of a physician or ARNP must have access to the registry at all times.

A health care declaration that is stored in the registry may be revoked by standard statutory methods or according to a method developed by the Department. Revocation of a health care declaration stored in the registry by means of a standard statutory method is valid even if the Department is not notified of the revocation.

Physicians, ARNPs, health care providers acting under the direction of a physician or ARNP, health care facilities and their employees who, in good faith and without negligence, act in reliance on a declaration in the registry, are immune from civil and criminal liability and professional sanctions in specified circumstances. These circumstances include when they provide, do not provide, withdraw, or withhold treatment and: (1) there was no actual knowledge that there was a declaration in the registry; (2) there was no actual knowledge that the declaration had been revoked; (3) the declaration is subsequently determined to have been invalid; or (4) the procedure is in accordance with the declaration that is stored in the registry.

The Department is immune from civil liability for its administration and operation of the registry except in cases of gross negligence, willful misconduct, or intentional wrongdoing.

The stated intent of the act is that the electronic registry improve access to advance directives and mental health advance directives, but not supplant the current system of using these documents. The intent is also stated to be that health care providers consult the registry in all situations where there may be a question about the patient's wishes for periods of incapacity and the existence of a document of the patient's intentions except where it would affect the emergency care of the patient.

The Health Care Declarations Registry Account (Account) is created for the purpose of creating and maintaining the registry and educating the public about the registry. The Account is appropriated and is to be funded through donations and appropriations.

By December 1, 2008, the Department must report to the Legislature on the number of registry participants, number and type of health care declarations submitted, number and type of revocations, number and type of providers and facilities with access to the registry, costs of operating the registry, and donations received for the Account.

Votes on Final Passage:

House 97 1
Senate 47 1

Effective: June 7, 2006

SHB 2344
C 20 L 06

Increasing the number of superior court judicial positions in Clallam and Cowlitz counties.

By House Committee on Judiciary (originally sponsored by Representatives Kessler, Buck, Kagi, Curtis, Takko, Blake and Kenney).

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

Background: The Legislature sets by statute the number of superior court judges in each county. The state and the counties share the costs of the superior courts. Benefits and one-half of the salary of a superior court judge are paid by the state. The other half of the judge's salary and all other costs associated with a judicial position, such as capital and support staff costs, are borne by the county.

Periodically, the Administrative Office of the Courts (AOC) does a workload analysis of the superior courts to determine if additional judicial positions are needed.

Clallam County has two statutorily authorized judges. Cowlitz County has four authorized judges. The workload analysis conducted by the AOC indicates a need for an additional judge for both counties.

Summary: One additional superior court judge is authorized in Clallam County and one additional superior court judge is authorized in Cowlitz County.

The additional judicial positions are effective only if each county documents its approval of the additional position and agrees to pay for its share of the costs for the position without reimbursement from the state.

Votes on Final Passage:

House 97 1
Senate 48 0

Effective: June 7, 2006

SHB 2345
C 200 L 06

Addressing regional fire protection service authorities.

By House Committee on Local Government (originally sponsored by Representatives Simpson, Rodne, Appleton and Haler).

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

Background: Creation of a Regional Fire Protection Service Authority. A Regional Fire Protection Service Authority (Authority) may be created for the purpose of conducting specified fire protection functions at a regional level. An Authority may be created by the merger of two or more adjacent fire protection jurisdictions, including fire protection districts, cities, port districts, and Indian tribes.

Planning Committee. The fire protection jurisdictions proposing the creation of an Authority must establish a planning committee to develop and adopt a service plan. The plan must provide for the design, financing, and development of fire protection services. In formulating its service plan, a planning committee may not recommend the provision of ambulance services unless the Authority finds that existing ambulance services cannot adequately serve the jurisdictions served by the Authority. If such a finding is made, then the Authority may establish its own ambulance service or arrange for such service by contract. The planning committee must also recommend statutorily authorized sources of revenue and as well as a financing plan for the funding of selected fire protection service projects.

As part of its plan, the planning committee may recommend revenue sources that could be utilized following voter approval. The authorized revenue sources include both property taxes as well as "benefit charges." A "benefit charge" is a charge imposed upon a property owner based upon the measurable benefits to be received by the property owner as the result of the creation of the Authority.

Voter Approval of Plan. Once adopted by the planning committee, the plan must be forwarded to the participating jurisdictions' governing bodies to initiate the election process. The voters may, by majority vote, approve or reject a single ballot measure that both approves the formation of the Authority and the plan. Taxes and benefit charges may not be imposed by an Authority unless they are specifically identified in a plan receiving voter approval. This voter approval requirement is in addition to any other legal requirements regarding voter approval of property tax levies or the imposition of benefits charges.

Powers and Duties of an Authority. An Authority is governed by a board consisting of persons identified in the plan. Board members must all be elected officials. When it first meets, the board of an Authority must adopt bylaws and operational procedures. The board is responsible for the execution of the voter-approved plan. A board is required to:

- levy and impose taxes as authorized;
- enter into intergovernmental agreements;
- acquire, hold, or dispose of real property;
- exercise the powers of eminent domain;
- enforce fire codes;
- accept grants and contributions to support the purposes of the Authority;
- monitor and audit the progress and execution of the Authority's programs and projects;
- enter into leases, contracts, and pay for services;
- hire and fire personnel; and
- exercise other powers and duties as are reasonably necessary to carry out its purposes.

All powers, duties, and functions of a participating fire protection jurisdiction may be transferred by resolution to the Authority. Such a transfer does not affect existing collective bargaining agreements.

Financing the Operation of an Authority. An Authority may issue its own debt maturing in up to10 years and notes maturing in up to 20 years. It may also pledge tax revenues by contracts of up to 25 years duration in order to pay principal and interest on bonds issued by the Authority. The Authority may incur general indebtedness and issue general obligation bonds maturing in up to10 years to be paid by voter-approved excess property tax levies.

An Authority may obtain revenues through ad valorem property taxes which are based on the assessed value of taxable property within the Authority. Subject to specified conditions, an Authority is authorized to impose three separate tax levies to fund its operations, each of which is limited to $0.50 per $1,000 of assessed value The third $0.50 levy may be imposed only if the Authority has at least one full-time employee.

An authority may also impose excess levies for maintenance and operation purposes or for bond retirement for capital facilities when authorized by law. Bond levies pay the annual principal and interest required for the term of the bond, typically 20 years. Excess levies must be approved through a ballot proposition that receives a 60 percent majority of the votes cast.

An Authority may also obtain revenues through the imposition of a "benefits charge." Benefit charges are not based on the value of real property, but are instead linked to other factors such as insurance savings, water sources, or the distance from fire service facilities. An Authority may use this funding approach as a means for reducing property taxes and apportioning the costs of service in a manner that more accurately reflects the benefits delivered. The imposition of a benefits charge must be approved through a ballot proposition that is approved

by a 60 percent majority of the voters living within the jurisdiction of the Authority.

Summary: Provision of Emergency Services. The powers granted to the Authority include the creation and operation of "emergency" services as well as fire protection services.

Creation of a Regional Ambulance Service. The Authority must comply with several procedural requirements before an ambulance service may be created that competes with an existing private ambulance service. These procedures include the requirement that the Authority formally study the adequacy of existing private ambulance services and make specific factual findings that such services are insufficient to serve the needs of the region within the jurisdiction of the Authority.

Plan Amendments not Requiring Voter Approval. The planning committee must identify within the plan those provisions that may be amended by the Authority without voter approval.

Requirements for Voter Approval of Revenue Sources. The voting requirements for public approval of a plan are clarified as follows:

- If a plan authorizes the Authority to impose benefit charges or tax levies that by law require the approval of 60 percent of the voters, then the plan itself must be approved by 60 percent of the voters.
- If the plan authorizes alternative sources of revenue not subject to the 60 percent voter approval requirement, then the plan must be approved by simple majority vote.
- If the plan does not authorize the authority to impose benefit charges or tax levies requiring the approval of 60 percent of the voters, then the plan is subject to approval by simple majority vote.

Subsequent to the adoption of the plan, the Authority may impose taxes and benefit charges not specified in the original plan, provided the requisite voter approval is obtained prior to the imposition of such taxes or benefits charges.

Effective Date That an Authority Must Assume Its Duties. Following the requisite voter approval, an Authority must assume its duties on the next January 1st, or the next July 1st, whichever occurs first.

Powers and Duties of the Governing Board. The powers and duties of an Authority's governing board are clarified as follows:

- The board must exercise powers and perform duties as the board determines necessary to carry out the purposes, functions, and projects of the Authority.
- The exercise of the board's powers must be in accordance with legal requirements applicable to fire protection districts if one of the jurisdictions encompassed by the authority is such a district. However, this provision does not apply if the plan specifies otherwise.
- Provisions allowing the board to exercise eminent domain powers or to acquire, hold, or dispose of real property are deleted.

Transfers of Powers and Duties to the Authority by Participating Jurisdictions. Unless otherwise specified in the plan, the powers, duties, and functions of participating jurisdictions are transferred to the Authority.

Transfers of Assets and Debts to the Authority. Unless otherwise specified in the plan, the assets and debts of participating jurisdictions are transferred to the Authority.

Annexations Affecting Participating Jurisdictions. Territory that is annexed to a participating jurisdiction is deemed automatically annexed to the Authority as of the effective date of the annexation.

Debt and Bonding Authority. An Authority may incur general indebtedness not exceeding an amount equal to 0.75 percent of the value of the taxable property located within the jurisdiction of the Authority. The maximum term of such indebtedness may not exceed 20 years. In order to pay its obligations, an Authority may pledge payments to be received by the Authority from the state, the federal government, or any fire protection jurisdiction under an interlocal contract. Excess property tax levies may also be used to retire general indebtedness provided the requisite voter approval is obtained.

An Authority is also authorized to issue general obligation bonds for capital purposes. Such bonds, together with any outstanding general obligation debt, may not exceed an amount equal to 1.5 percent of the value of the taxable property within the jurisdiction of the Authority. The bonds may be retired through excess property tax levies following voter approval of a proposition authorizing the indebtedness and the tax levies. The requisite voter approval requires the affirmative vote of 60 percent of those voting at an election involving voter participation of not less than 40 percent of the residents who voted at the last preceding state election. The maximum term of the bonds may not exceed 20 years.

Collective Bargaining Agreements. Several provisions are added pertaining to the rights of Authority employees under collective bargaining agreements existing among the various fire protection jurisdictions encompassed by the Authority. Unless otherwise specified in a new agreement applicable to all transferring employees at the time of the creation of the Authority, such employees retain all of the rights, benefits, and privileges they had under the various collective bargaining agreements existing prior to the creation of the Authority.

Civil Service Provisions. Subject to specified conditions, an Authority is granted the power to create civil service rules applicable to its employees.

Votes on Final Passage:

House	97	1	
Senate	48	0	(Senate amended)
House	98	0	(House concurred)

Effective: June 7, 2006

HB 2348
C 2348 L 06

Extending tax relief for aluminum smelters.

By Representatives Morris, Ericksen, Condotta, Linville, Conway, Sump, Haler, Orcutt, Wallace, Ericks, B. Sullivan, O'Brien, Dunn and Holmquist.

House Committee on Technology, Energy & Communications
House Committee on Finance
Senate Committee on International Trade & Economic Development
Senate Committee on Ways & Means

Background: In Washington, the aluminum smelting industry has contracted in recent years as a result of declining aluminum prices in the global aluminum commodities market and local increases in the price of electricity, a major cost driver in aluminum prices. In 1998, the industry in the state employed over 5,300 people and had taxable income of $2.4 billion. The 2001 energy crisis, and spiking wholesale power prices, resulted in most of the state's smelters shutting down at least temporarily, and most have not resumed normal operations. In the state fiscal year 2002, taxable income for the industry was down to $700 million and only 2,200 persons were employed.

Prior to 1996, the industry received most of its electricity from the Bonneville Power Administration (BPA) at preferential rates and, in exchange, provided a portion of the BPA reserve requirements through interruptibility provisions in their electricity service contracts. However, since 1996 the BPA has increasingly reduced the energy allocated to the industry, requiring aluminum smelters to rely more on the wholesale market.

In 2004, the Legislature created the Aluminum Smelter Tax Incentives Program (Program) for the aluminum smelting industry. The Program includes a number of tax preferences that result in lower liability under the Business and Occupation (B&O) tax and under the sales and use taxes, and indirect savings related to certain utility tax credits. The Program also includes goals related to meeting certain employment levels and assisting the viability of the industry through 2006. These tax incentives are scheduled to expire on January 1, 2007.

In the fiscal year ending June 30, 2005, Program participants had claimed $2.1 million worth of incentives. While employment and wages in the industry have declined since the incentives took effect, the program goal of maintaining 75 percent of the employment level as of January 1, 2004, as adjusted for previously announced reductions, has been met as of June 30, 2005. In addition, the target employment level under the incentive program is 449 persons; as of June 30, 2005, the industry employment level was 971 persons.

Summary: A number of tax incentives provided to firms in the aluminum smelting industry are extended until January 1, 2012.

The B&O tax rates on the manufacturing, processing for hire, and wholesaling of aluminum are reduced for aluminum smelters to .2904 percent through January 1, 2012. Aluminum smelters may take a credit against B&O tax liability for property taxes paid through January 1, 2012.

Through January 1, 2012, aluminum smelters may receive a credit against retail sales and use tax liability for the amount of the state portion of sales and use taxes paid with respect to property used at a smelter or to labor and services rendered with respect to the property. Aluminum smelters are exempt from the brokered natural gas use tax through January 1, 2012.

The act includes accountability provisions related to employment goals, reporting requirements, and an evaluation. The goals of the incentives are to: (1) maintain aluminum production at a level that will preserve at least 75 percent of the jobs that were on the payroll as of January 1, 2004, adjusted for any reductions announced prior to December 2003, and (2) allow the aluminum smelting industry to continue operations in the state through 2012 when energy costs are anticipated to drop.

By December 1, 2007, the fiscal committees of the House and Senate, in consultation with the Department of Revenue, must issue a report to the Legislature evaluating the effectiveness of the incentives, including the effect on job retention. Another report to the Legislature must be conducted by December 1, 2010, and December 1, 2015.

Votes on Final Passage:

House	90	8	
Senate	40	8	(Senate amended)
House	93	4	(House concurred)

Effective: June 7, 2006

ESHB 2352
C 201 L 06

Modifying net metering provisions.

By House Committee on Technology, Energy & Communications (originally sponsored by Representatives Morris, Hudgins and B. Sullivan).

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

Background: Net Metering. Net metering means measuring the difference between the electricity supplied by an electric utility and the electricity generated by a customer-generator over a billing period. State law defines a net metering system as an electrical production facility that: (1) is a fuel cell or uses solar, wind, or hydro power; (2) has a generating capacity of 25 kilowatts or less; (3) is located on the premises of a customer-generator; (4) operates in parallel with the electrical utility's distribution and transmission system; and (5) is intended primarily to offset part or all of the customer's electricity requirements.

Allowable Cumulative Generating Capacity of Net Metering Systems. Electric utilities must offer net metering to eligible customers-generators on a first-come, first-serve basis until the cumulative generating capacity of net metering systems equals 0.1 percent of the utility's peak demand during 1996, of which not less than 0.05 percent must be attributable to net metering systems that use as its fuel either solar, wind, or hydro power.

Excess Generating Credits. If electricity generated by the customer-generator exceeds the electricity supplied by the electric utility, the customer-generator must be: (1) billed for the appropriate customer charges for that billing period; and (2) credited for the excess kilowatt-hours generated during the billing period, with this kilowatt-hour credit appearing on the bill for the following billing period. At the beginning of each calendar year, any remaining unused credits in excess of kilowatt-hours generated by the customer-generator are granted to the electric utility, without compensation to the customer-generator.

Safety, Power Quality, and Interconnection Requirements. The Utilities and Transportation Commission (UTC), in the case of an electrical company, or the appropriate governing body, in the case of other electric utilities, may adopt additional safety, power quality, and interconnection requirements for customer-generators that the UTC or governing body determines are necessary to protect public safety and system reliability.

Summary: Net Metering System. Net metering is redefined to eliminate the requirement that the customer-generator electricity is fed back to the electric utility. Net metering system is redefined to mean a facility and produces electricity and used and useful thermal energy from a common fuel source, or a facility for the production of electrical energy that generates renewable energy. Renewable energy is defined as energy generated by a facility that uses water, wind, solar energy, or biogas from animal waste as a fuel. The generating capacity allowed for net metering systems is increased to not more than 100 kilowatts.

Allowable Cumulative Generating Capacity of Net Metering Systems. An electricity utility must offer to make net metering available to eligible customer-generators on a first-come, first-served basis until the cumulative generating capacity of net metering systems equals 0.25 percent, instead of 0.1 percent, of the utility's peak demand during 1996. On January 1, 2014, the cumulative generating capacity available to net metering systems will equal 0.5 percent of the utility's peak demand during 1996. Not less than 50 percent of the utility's 1996 peak demand available for net metering is reserved for the cumulative generating capacity attributable to net metering systems that generate renewable energy.

Excess Generating Credits. On April 30 of each calendar year, any unused kilowatt-hour credits accumulated during the previous year must be granted to the electric utility, without compensation to the customer-generator.

Safety, Power Quality, and Interconnection Requirements. The UTC and governing bodies of electric utilities may adopt limitations on the number of customer-generators and total capacity of net metering systems that may be interconnected to any distribution feeder line, circuit, or network in order to protect public safety and system reliability.

Votes on Final Passage:

House	97	1	
Senate	46	1	(Senate amended)
House	96	1	(House concurred)

Effective: June 7, 2006

E2SHB 2353
C 54 L 06

Providing collective bargaining for family child care providers.

By House Committee on Appropriations (originally sponsored by Representatives Pettigrew, Shabro, Kessler, Priest, Cox, Conway, Haler, P. Sullivan, Appleton, Walsh, Kenney, Green, Armstrong, Hasegawa, Kagi, Hunt, McCoy, Buri, Fromhold, Strow, Curtis, McDermott, Williams, Hudgins, Moeller, Sells, Lantz, Kilmer, Chase, McDonald, Morrell, Murray, Linville, Santos, Springer, Wallace, Dickerson, Roberts, Cody, B. Sullivan, Simpson, Ericks, Upthegrove, Campbell, Ormsby and O'Brien).

House Committee on Commerce & Labor
House Committee on Appropriations
Senate Committee on Labor, Commerce, Research & Development
Senate Committee on Ways & Means

Background: Child Care Services. The state, through the Department of Social and Health Services' Division of Child Care and Early Learning, is responsible for licensing child care homes and centers. The state also subsidizes part of the child care costs for children from low-income families with parents who are working,

going to school, homeless, or otherwise eligible. In accordance with federal regulations, the state ties child care subsidy rates to a local market survey of child care market rates conducted at least every two years.

In fiscal year 2004, the state subsidized care for approximately 67,000 children per month. These children received subsidized care in a variety of ways, either in licensed centers and family homes, or from unregulated but legal providers. Licensed family home providers cared for about 25 percent of state-subsidized children. Another 20 percent received subsidized care either in their own home or in the home of a relative.

Public Employee Collective Bargaining. Employees of cities, counties, and other political subdivisions of the state bargain their wages and working conditions under the Public Employees' Collective Bargaining Act (PECBA) administered by the Public Employment Relations Commission (PERC). Individual providers (home care workers) also have collective bargaining rights under the PECBA.

The exclusive bargaining representative is determined by the PERC if the public employer and public employees are in disagreement as to the selection of a bargaining representative. The PERC determines the exclusive bargaining representative by conducting either an election or a cross-check of membership records. If there is more than one organization on the ballot and none of the three or more choices receive a majority vote of the public employees within the bargaining unit in an initial election, there is a run-off election.

The employer and exclusive bargaining representative have a mutual obligation to negotiate in good faith over specified mandatory subjects of bargaining: grievance procedures and personnel matters, including wages, hours, and working conditions. For uniformed personnel, the PECBA recognizes the public policy against strikes as a means of settling labor disputes. To resolve impasses over contract negotiations involving these uniformed personnel, the PECBA requires binding arbitration if negotiations for a contract reach impasse and cannot be resolved through mediation. The interest arbitration panel must consider: the employer's authority; the parties' stipulations; comparisons of wages, hours, and conditions of employment of like personnel of like employers; and the cost of living.

Summary: The Public Employees' Collective Bargaining Act (PECBA) is amended to apply to the Governor with respect to family child care providers, and to govern collective bargaining between the Governor and the providers' exclusive bargaining representative.

Public Employees and Employer. Solely for purposes of collective bargaining, family child care providers are "public employees." Family child care providers are persons who:

- regularly care for one or more children in their home or the children's home;
- receive child care subsidies from the state; and
- may be licensed, or exempt from licensing.

Solely for purposes of collective bargaining, the Governor is the "public employer."

Bargaining Unit and Representative. For purposes of collective bargaining, the only appropriate unit is a statewide unit of all family child care providers. The exclusive bargaining representative of the family child care providers is determined in the manner specified in the PECBA, except that, if none of the choices receives a majority of the votes cast in the initial election, there is a run-off election.

Mandatory Subjects of Bargaining. The exclusive bargaining representative of the family child care providers and the Governor have a mutual obligation to negotiate in good faith over specified mandatory subjects of bargaining. Mandatory subjects are limited to: (1) economic compensation, such as manner and rate of subsidy and reimbursement, including tiered reimbursements; (2) health and welfare benefits; (3) professional development and training; (4) labor-management committees; (5) grievance procedures; and (6) other economic matters. Retirement benefits are not subject to collective bargaining. Negotiations must be commenced initially upon certification of the exclusive bargaining representative and, thereafter, by February 1 of even-numbered years.

Requests for Funds and Legislative Changes. The Governor must submit a request to the Legislature for any funds and legislative changes necessary to implement a collective bargaining agreement covering family child care providers. The Legislature may approve or reject the submission of the request for funds only as a whole. If the Legislature rejects or fails to act on the submission, the collective bargaining agreement will be reopened solely for the purpose of renegotiating the funds necessary to implement the agreement.

Mediation and Arbitration; No Right to Strike. Family child care providers are subject to mediation and binding interest arbitration if an impasse occurs in negotiations. The interest arbitration panel must consider: the employer's authority, the parties' stipulations; comparisons of wages, hours, and conditions of employment of like personnel of like employers; and the cost-of-living. The interest arbitration panel must also consider the financial ability of the state to pay for the compensation, fringe benefit, and child care subsidy provisions of the agreement. The interest arbitration panel's decision is not binding on the Legislature, and if the Legislature does not approve the funding, it is not binding on the state.

Family child care providers do not have the right to strike.

Union Dues. The state must deduct monthly union dues from a family child care provider's payments upon written authorization of the family child care provider

and after certification or recognition of an exclusive bargaining representative of the family child care providers.

If a union security clause is included in the agreement: (1) the state must deduct the dues or equivalent fees from the payments made to all family child care provider bargaining unit members; and (2) the agreement must include a process for hardship dispensation of license-exempt members who are recipients of Temporary Assistance for Needy Families or participants in WorkFirst.

Negotiated Rulemaking. For purposes of negotiated rule-making under the Administrative Procedures Act, the only appropriate unit is a statewide unit of all family child care licensees. Family child care licensees are persons who:

- regularly care for one or more children in their home;
- are licensed; and
- do not receive child care subsidies from the state.

The representative of the family child care licensees is initially selected in elections held in accordance with a directive of the Governor to the Secretary of the Department of Social and Health Services dated September 16, 2005. Thereafter, the representatives are selected in an election conducted by the American Arbitration Association.

State Action Immunity. The Legislature intends to provide state action immunity under antitrust laws for the joint activities of: (1) family child care providers and their representative; and (2) family child care licensees and their representative.

Other Provisions. Parents and legal guardians have the right to choose and terminate the services of family child care providers.

The Secretary of the Department of Social and Health Services has the right to adopt rules, other than rules related to grievance procedures and collective negotiations on personnel matters.

The Legislature has the right to modify the delivery of state child care services, including the standards for eligibility of parents, legal guardians, and family child care providers and the nature of the services.

Laws governing investigations of child abuse or neglect, background checks, and adverse licensing actions are not modified.

Votes on Final Passage:

House	84	14	
Senate	40	8	(Senate amended)
House	86	11	(House concurred)

Effective: June 7, 2006
March 15, 2006 (Sections 1-5)

HB 2364
C 11 L 06

Creating a use tax exemption when converting or merging a federal, foreign, or out-of-state credit union into a state charter.

By Representatives Santos, Orcutt, McIntire, Hunter, Armstrong, Morrell, Roach, Kenney, Fromhold, Ericks and McDermott.

House Committee on Financial Institutions & Insurance
House Committee on Finance
Senate Committee on Ways & Means

Background: Credit unions. A credit union is a financial cooperative organization of individuals who have a common bond, such as a place of employment, residence, or membership in a labor union. Credit unions accept deposits from members, pay interest (in the form of dividends) on the deposits out of earnings, and use their funds mainly to provide consumer installment loans to members.

Credit unions doing business in Washington may be chartered by the state or federal government. Federally chartered credit unions are regulated by the National Credit Union Administration (NCUA), under the Federal Credit Union Act. Their share accounts are insured by the National Credit Union Share Insurance Fund (NCUSIF), which is administered by the NCUA. Washington chartered credit unions are regulated primarily by the Division of Credit Unions of the Washington Department of Financial Institutions. Washington credit unions are organized and regulated under the Washington State Credit Union Act.

There are certain business reasons that a credit union may choose to operate as a state-chartered union or a federally chartered union in Washington. Federally chartered institutions are exempt from paying state taxes, for example, and such institutions that operate in multiple states are governed by a single set of regulations. On the other hand, Washington statutes and regulations allow for a broader field of membership and greater flexibility in business lending than do federal regulations.

As of January 2006, about 79 state credit unions and 61 federal credit unions were in operation in Washington.

Conversions and mergers of credit unions. Federally chartered credit unions may convert to state chartered credit unions or merge with state chartered credit unions under the state charter. When converting to or merging under the state charter, a credit union becomes subject to state regulation. Since 1990, 19 credit unions converted from the federal to the state charter, and 27 mergers between state and federal credit unions under the state charter have taken place.

Use tax. The use tax is imposed on items and certain services used in the state for which retail sales tax has not been paid. This includes purchases made in other

states and purchases from sellers who do not collect Washington sales tax. The tax is levied at the same rate as the retail sales tax, a 6.5 percent rate by the state. Cities and counties also impose use taxes at the same rate as any local sales tax imposed. Local rates imposed range from 0.5 percent to 2.4 percent. The tax is paid directly to the Department of Revenue.

All items or services sold or acquired at retail are subject to the retail sales and use taxes unless specifically exempted otherwise. Such exemptions include purchases made by federally-owned entities, such as federally chartered credit unions.

In 2004, the Board of Tax Appeals issued a decision finding that a credit union that converts from the federal to the state charter loses its federal exemption and so owes use tax on property for which sales tax had not been paid.

Summary: Personal property, services, and extended warranties that are acquired by a state credit union from a federal, out-of-state, or foreign credit union as a result of a conversion or merger are exempt from the use tax.

Votes on Final Passage:

House 87 8
Senate 47 0

Effective: June 7, 2006

HB 2366
C 202 L 06

Making certain communications between fire fighters and peer support group counselors privileged.

By Representatives B. Sullivan, Appleton, Moeller, Buck, Haler, Fromhold, Ericks, Strow, Simpson, Campbell and Ormsby.

House Committee on Judiciary
Senate Committee on Judiciary

Background: The judiciary has inherent power to compel witnesses to appear and testify in judicial proceedings so that the court will receive all relevant evidence. However, the common law and statutory law recognize exceptions to compelled testimony in some circumstances, including "testimonial privileges." Privileges are recognized when certain classes of relationships or communications within those relationships are deemed of such importance that they should be protected.

Washington statutory law establishes a number of privileges, including communications between the following persons: (1) husband and wife; (2) attorney and client; (3) clergy and confessor; (4) physician and patient; (5) psychologist and client; (6) optometrist and client; (7) law enforcement peer support counselor and a law enforcement officer; and (8) sexual assault advocate and victim.

The law enforcement peer support counselor privilege protects communications made by a law enforcement officer to a designated peer support group counselor while receiving counseling. The peer support group counselor may not be compelled to testify in a judicial proceeding about the communication unless the law enforcement officer consents to disclosure. This privilege applies only to communications made to a counselor acting in his or her capacity as a peer support group counselor. The privilege does not apply if the counselor was an initial responding officer, a witness, or a party to the incident that prompted the counseling services to the law enforcement officer.

A peer support group counselor is a person who has received training to provide emotional and moral support and counseling to an officer who needs these services as a result of an incident in which the officer was involved while acting in his or her official capacity.

Summary: A testimonial privilege is created to protect communications made by a fire fighter to a peer support group counselor while receiving counseling as the result of an incident in which the fire fighter was involved while acting in his or her official capacity. The privilege applies under the same circumstances and conditions required for the law enforcement officer peer support group counselor privilege.

Votes on Final Passage:

House 98 0
Senate 47 0

Effective: June 7, 2006

HB 2367
C 22 L 06

Regarding the certification of tribal police officers.

By Representatives O'Brien, Kirby, Strow, McCoy and B. Sullivan; by request of Criminal Justice Training Commission.

House Committee on Criminal Justice & Corrections
Senate Committee on Judiciary

Background: The Criminal Justice Training Commission (CJTC) provides basic law enforcement training, corrections training, and educational programs for criminal justice personnel, including commissioned officers, corrections officers, fire marshals, and prosecuting attorneys. Basic law enforcement officer training is generally required of all law enforcement officers, with the exception of volunteers, and reserve officers employed in Washington.

Certification. In addition to the basic training requirement, all Washington law enforcement officers are required to obtain and retain certification as peace officers as a condition of continuing employment as a peace officer. The CJTC is authorized to issue or revoke all peace officer certifications. As a prerequisite to certi-

fication, a peace officer must release to the CJTC all personnel files, termination papers, criminal investigation files, or any other files, papers, or information that are directly related to the certification or decertification of the officer. The CJTC has the authority to grant, deny, or revoke the certification of peace officers.

A peace officer's certification may be denied or revoked if the officer has done one of the following actions:

- failed to timely meet all requirements for obtaining a certificate of basic law enforcement training or an authorized exemption from the training (certification lapses when there is a break of more than 24 consecutive months in the officer's service as a full-time law enforcement officer);
- knowingly falsified or omitted information on a training application or certification to the CJTC;
- been convicted of a felony unless the felony conviction was fully disclosed to the employing agency before being hired;
- been discharged for misconduct and the discharge was final;
- obtained a certificate that was previously issued by administrative error on the part of the CJTC; or
- interfered with an investigation or action for denial or revocation of a certificate by knowingly making a false statement to the CJTC or tampering with evidence or intimidating any witness.

Washington does not have a statewide certification or re-certification process for tribal law enforcement officers. As a result, tribal police officer certification is not required of new police officers joining a tribal police agency or returning tribal police officers who may have left full-time service and have later chosen to return to their careers with a tribal police department.

Hearings Panel. When an appeal is filed in relation to decertification of a peace officer who is not a peace officer of the Washington State Patrol (WSP), the hearings board must consist of the following persons: (1) a police chief; (2) a sheriff; (3) two police officers who are at or below the level of first-line supervisor, who are from city or county law enforcement agencies, and who have at least 10 years of experience; and (4) one person who is not currently a peace officer and who represents a community college or a four-year college or university.

When an appeal is filed in relation to decertification of a peace officer of the WSP, the CJTC must appoint to the hearings panel: (1) either one police chief or one sheriff; (2) one administrator of the WSP; (3) one peace officer who is at or below the level of first-line supervisor, who is from a city or county law enforcement agency, and who has at least 10 years of experience as a peace officer; (4) one state patrol officer who is at or below the level of a first-line supervisor and who has at least 10 years of experience as a peace officer; and (5) one person who is not currently a peace officer and who represents a community college or four-year college or university.

In cases where there is a charge: (1) upon which revocation or denial of certification is based on a peace officer being discharged for disqualifying misconduct; (2) where the discharge is "final;" and (3) where the officer received a hearing culminating in an affirming decision following separation from service by the employer, the hearings panel may revoke or deny certification if it determines that the discharge occurred and was based on disqualifying misconduct. The hearings panel does not need to redetermine the underlying facts, but may make a determination based solely on review of the records and the employment separation proceeding. However, the hearings panel may, in its discretion, consider additional evidence to determine whether a discharge actually occurred and whether it was based on disqualifying misconduct. The hearings panel must, upon written request by the subject peace officer, allow the peace officer to present additional evidence of extenuating circumstances.

Where there is a charge where revocation or denial of certification is based upon a peace officer being convicted at any time of a felony offense, the hearings panel must revoke or deny certification, if it determines that the peace officer was convicted of a felony. The hearings panel need not redetermine the underlying facts, but may make this determination based solely on review of the records and the decision relating to the criminal proceeding. However, the hearings panel must, upon the panel's determination of relevancy, consider additional evidence to determine whether the peace officer was convicted of a felony.

Summary: The CJTC has the authority to grant, deny, or revoke the certification of tribal police officers employed by any tribal government that has voluntarily requested certification for their police officers.

Certification. A tribal government voluntarily requesting certification for their police officers must enter into a written agreement with the CJTC. The agreement must require the tribal law enforcement agency and its officers to comply with all of the requirements for granting, denying, and revoking certification as are applied to other peace officers certified in the state.

In addition, all officers applying for certification as tribal police officers must meet the same CJTC requirements required for the certification of other peace officers employed in Washington. An application for certification as a tribal police officer must be accepted and processed in the same manner as are those for certification of peace officers.

Hearings Panel. When a hearing is requested in relation to the decertification of a tribal police officer, a five-member hearings panel must both hear the case and make the CJTC's final administrative decision. The

hearings board must consist of the following persons: (1) one police chief or one sheriff; (2) one tribal police chief; (3) one peace officer who is at or below the level of a first-line supervisor, who is from a city or county law enforcement agency, and who has at least 10 years of experience as a peace officer; (4) one tribal police officer who is at or below the level of first-line supervisor and who has at least 10 years of experience as a peace officer; and (5) one person who is not currently a peace officer and who represents a community college or a four-year college or university.

A "tribal police officer" is defined as any person employed and commissioned by a tribal government to enforce the criminal laws of that government.

Votes on Final Passage:

House 78 20
Senate 44 4

Effective: January 1, 2007

SHB 2370
C 3 L 06

Funding low-income home energy assistance.

By House Committee on Appropriations (originally sponsored by Representatives Green, Williams, Kessler, Kilmer, Chase, Blake, Morrell, Appleton, Moeller, Hasegawa, Murray, Linville, Conway, P. Sullivan, Springer, Takko, Lantz, Dickerson, Kenney, Fromhold, Kagi, McIntire, Ericksen, B. Sullivan, Simpson, Ericks, Sells, Upthegrove, Ormsby, McDermott and Schual-Berke; by request of Governor Gregoire).

House Committee on Appropriations

Background: The Washington Utilities and Transportation Commission (WUTC) collects regulatory fees payable by all types of public service companies and deposits them into the Public Service Revolving Fund. Except for expenses payable out of the Pipeline Safety Account, all WUTC operational expenses are paid out of the Public Service Revolving Fund.

The WUTC filed a complaint against the Qwest Communications Company in August 2003 after a several year investigation. The complaint centered on the failure of Qwest to file with the WUTC the "interconnection agreements" between Qwest and 13 competitive local exchange carriers. The WUTC served its order on Qwest on February 28, 2005, which included a fine of $7,824,000. The fine was paid on April 14, 2005, and was deposited in the Public Service Revolving Fund.

The Department of Community, Trade and Economic Development (DCTED) manages the Low-Income Home Energy Assistance Program (LIHEAP). The LIHEAP program is a federally funded block grant that provides money to help low-income households make home heating payments to avoid utility service shut off during the winter.

Summary: The sum of $7.6 million is appropriated from the Public Service Revolving Fund to the Washington Utilities and Transportation Commission for transfer to the Department of Community, Trade and Economic Development for the Low-Income Energy Assistance Program during the 2005-07 biennium. The appropriation may not be used for the DCTED's administrative costs.

Votes on Final Passage:

House 97 0
Senate 48 0

Effective: January 12, 2006.

SHB 2372
C 23 L 06

Encouraging volunteers to teach hunter education courses.

By House Committee on Natural Resources, Ecology & Parks (originally sponsored by Representatives Cox, Buri, Williams, Blake, Moeller, Buck, Conway, Sump, P. Sullivan, Springer, Haler, Ericks, Kretz, Simpson, Dunn and Ormsby).

House Committee on Natural Resources, Ecology & Parks
Senate Committee on Natural Resources, Ocean & Recreation

Background: The Department of Fish and Wildlife (Department) is responsible for the operation of a statewide hunter education program. This program, or an equivalent program in another state, must be completed by most applicants for a state hunting license.

The hunter education program consists of at least 10 hours of instruction in safety, conservation, sportsmanship, and firearm handling. Average classes involve four to six sessions and require the student to pass a written test and demonstrate firearm handling skills. The Department offers both a live course option and a home study option. Live courses are scheduled throughout the state.

Hunter education courses are taught by volunteers, either individually or as a team, who are trained and certified by the Department. All instructors must be at least 21 years of age and undergo a background investigation by the Department.

Summary: The Department is directed to create non-monetary incentives to encourage more individuals to volunteer their time as hunter education instructors.

Votes on Final Passage:

House 98 0
Senate 45 0

Effective: June 7, 2006

SHB 2376
C 24 L 06

Prohibiting the department of social and health services from imposing premiums on children in households with income at or below two hundred percent of the federal poverty level.

By House Committee on Health Care (originally sponsored by Representatives Clibborn, Morrell, Murray, Wallace, Cody, Schual-Berke, Simpson, Green, Sells, Ormsby, Appleton, Fromhold, Hunt, Kenney, Kessler, Lantz, Miloscia, Moeller and Williams; by request of Governor Gregoire).

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

Background: The Department of Social and Health Services is authorized to establish co-payment, deductible, co-insurance requirements, and other cost sharing requirements, such as premiums, for participation in Medicaid and other state-funded medical programs.

Summary: The authority to charge premiums from recipients of medical care services is removed for children in households at or below 200 percent of the federal poverty level.

Votes on Final Passage:

House	74	24
Senate	34	11

Effective: June 7, 2006

HB 2379
C 203 L 06

Disposing of nonprobate assets under will.

By Representatives Lantz, Serben and Rodne.

House Committee on Judiciary
Senate Committee on Judiciary

Background: Nonprobate assets are rights and interests that, upon the person's death, pass to a named beneficiary under a written instrument other than the person's will. Nonprobate assets include things like joint bank accounts with right of survivorship and individual retirement accounts. Generally, the person names the beneficiary in the document creating the nonprobate asset.

Even if a beneficiary is named in the document related to the nonprobate asset, the owner of the asset can later change the beneficiary in his or her will without having to change the original document. In that case, the will controls regardless of the prior designation.

If the person later changes the beneficiary again after the date of the will, then the will no longer controls. If the person later revokes that new beneficiary, the prior will does not control. The statute does not specify how the nonprobate asset is treated under those circumstances when the latest beneficiary is revoked and there is no other designation.

When disposing of nonprobate assets, a financial institution or other third party may rely on the beneficiary designated in the document creating the nonprobate asset, unless the financial institution or third party has actual knowledge of a beneficiary under a will.

Summary: Where there has been a beneficiary designated in a will that is later revoked by a new designation, which is also later revoked, the nonprobate asset is treated as any other general asset of the owner's estate, absent some other provision controlling the disposition of the asset.

The executor of the estate may rely on information provided to him or her by the financial institution when determining who is entitled to the asset.

Votes on Final Passage:

House	98	0
Senate	47	0

Effective: June 7, 2006

HB 2380
C 204 L 06

Changing the threshold age of minors under the uniform transfers to minors act.

By Representatives Serben, Lantz, Rodne, Haler and Schual-Berke.

House Committee on Judiciary
Senate Committee on Judiciary

Background: A person may wish to transfer property to a minor, but for legal or other reasons the immediate transfer of the property directly to the minor may not be possible or desirable.

In 1959, Washington adopted the Uniform Gifts to Minors Act. In 1991, that act was replaced by the Uniform Transfers to Minors Act (UTMA) which has remained largely unchanged since then.

The UTMA allows a person to transfer property irrevocably to a minor with the property being held by a custodian nominated by the transferor. The custodianship of the property lasts until the earlier of the minor's death or 21st birthday, or for some types of transfers until the minor reaches age 18. A transfer under the UTMA may be made either by a gift or through a power of appointment. During the custodianship, the custodian may spend as much of the property for the benefit of the minor as the custodian considers advisable. The custodian is also entitled to reimbursement for reasonable

expenses incurred. At the end of the custodianship, any remaining property goes to the minor or the minor's estate.

Under federal tax law, a person is allowed to make certain individual gifts without incurring federal tax liability. One of the requirements for qualifying for this tax exemption is that the gift must be of a "present interest" in the property given. A transfer of property to custodianship under the UTMA will not be disqualified as a "future interest" so long as the minor for whom the property is being held will receive the property before the age of 21.

During the custodianship of property transferred under the UTMA, the interests of the minor are protected by certain rights with respect to the management of the property. At age 14 the minor may exercise some of these rights independently. These age-affected rights include:

- the right of the minor to demand financial records from the custodian or to petition a court for an accounting;
- the right of the minor to petition a court to have some of the custodial property paid to the minor or spent for the minor's benefit; and
- the right of the minor to be notified of the resignation of a custodian, to petition for the removal of a custodian and to designate a successor custodian.

Summary: At the election of the transferor, the custodianship of property under the Uniform Transfers to Minors Act (UTMA) may be extended until the "minor" reaches age 25, instead of age 21. Such an extension must be elected by the transferor at the time of the initial nomination of the custodian of the property. Such extensions are available only for transfers of property made on or after July 1, 2007.

The statutory sample instrument for transfers under the UTMA is amended to include a warning statement about the possible federal gift tax consequences of extending a custodianship beyond the minor's 21st birthday. Any custodianship forms made available by financial institutions or investment advisers must contain the same warning.

The age at which a minor may independently exercise certain rights under a UTMA custodianship is raised from 14 years old to 18 years old.

Votes on Final Passage:

House	97	1
Senate	44	0

Effective: July 1, 2007

HB 2381
FULL VETO

Authorizing a beaver relocation permit.

By Representatives Kretz, Blake, Sump, Buri, Haler, Ericks and Holmquist.

House Committee on Natural Resources, Ecology & Parks

Senate Committee on Natural Resources, Ocean & Recreation

Background: The Department of Fish and Wildlife (Department) has the authority to authorize the removal or killing of wildlife that is destroying or injuring property. The ultimate disposition of the removed wildlife is determined by the Director of the Department. The Director may also enter into written agreements with landowners that are designed to protect the landowner's property from further wildlife damage.

Private individuals may trap beavers if they hold a state trapping license. All trapping must be conducted in accordance with the trapping seasons established by the Fish and Wildlife Commission.

Summary: Beaver Relocation Permits. The Department is required to issue a permit, at no cost to the applicant, that will allow the holder to capture live beavers in areas of the state where large beaver populations are considered a nuisance. The permit also allows the holder to transport the beavers within the state and release the beavers in eastern Washington on property owned by the permit holder. The permit holder must also possess a state trapping license or must contract with the holder of a trapping license for the actual capture of the beaver.

Beaver relocation permits may be limited by the Department to areas of the state where there is a low probability of released beavers becoming a problem, there is evidence of a historic endemic beaver population, and where conditions exist for the released beavers to improve the riparian area into which they are introduced.

The Department may condition beaver relocation permits to maximize the success and minimize the risk of the relocation. Release site conditions that the Department may consider include the gradient of the stream, the adequacy of food sources, the elevation, and the stream geomorphology. In addition, the Department may also condition how the capture and release is performed by the permit holder. This includes establishing the timing of the capture and release, the age of the beavers involved, the number of beavers involved, and requirements for providing supplemental food and lodging materials.

Department-Initiated Beaver Trapping. In instances when the employees of the Department are required to remove nuisance beavers, the employees must utilize live trapping techniques whenever possible. The Depart-

ment must work with private landowners to release the captured beavers at locations where they have been requested.

Votes on Final Passage:

House	98	0	
Senate	45	0	(Senate amended)
House	94	3	(House concurred)

VETO MESSAGE ON HB 2381

March 28, 2006

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

Ladies and Gentlemen:

I am returning, without my approval, House Bill No. 2381 entitled:

"AN ACT Relating to allowing the reintroduction of beavers into the historic habitat of the species."

House Bill 2381 would require Washington State's Department of Fish and Wildlife (WDFW) to issue a permit to individuals for the capture of live beavers in areas of the state where beaver populations are considered a nuisance. The permit also allows the transport and release of beavers within the state on property owned by the permit holder.

I understand that some landowners wish to have beavers released on their property, and that beavers can contribute positively to stream restoration and wildlife habitat. Certainly, in circumstances where relocation can be achieved without causing harm to adjacent properties, WDFW should be responsive, and should exercise its existing authority to trap beavers in problem areas and relocate them. The issue that House Bill 2381 addresses is not about the need for legislative authority so much as it is about receiving priority attention within WDFW.

While I am vetoing this bill, I have secured a commitment from WDFW to take three steps to be more responsive to landowner requests for beaver relocation.

WDFW has committed in writing to:

1. Instruct WDFW field staff to work more aggressively with interested landowners to relocate beavers on appropriate private properties where the benefits clearly outweigh the potential risks associated with future beaver-related damage;

2. The WDFW's Director will work with senior WDFW enforcement staff to identify a point person responsible for development and implementation of an effective beaver relocation process, and;

3. The WDFW will deliver to the Office of the Governor and all relevant legislative committees of the Washington State House and Senate, a report on beaver relocation activity conducted during 2006. The report will be delivered by January 1, 2007, and shall include information on the number of landowner requests for beavers, the number of requests that were filled, and the number of beavers actually relocated.

I believe these steps will address the underlying frustration behind House Bill No. 2381. I look forward to tracking WDFW's performance according to above-noted measures.

For these reasons, I have vetoed House Bill No. 2381 in its entirety.

Respectfully submitted,

Christine Gregoire

Christine O. Gregoire
Governor

SHB 2382
C 158 L 06

Providing limited liability immunity for injuries at bovine handling facilities.

By House Committee on Judiciary (originally sponsored by Representatives Kretz, Haler and Holmquist).

House Committee on Judiciary
Senate Committee on Judiciary

Background: Negligence is a type of tort liability based on damages caused by another person's failure to exercise reasonable care. A person who has been injured by another may bring a civil action to recover damages caused by the injury. The plaintiff in a case for negligence must establish four things: (1) the defendant owed a duty of care to the plaintiff; (2) the defendant breached that duty; (3) the breach was a proximate cause of the injury; and (4) the plaintiff suffered personal injury or property damage.

There are numerous statutory provisions that provide some form of immunity from negligence liability to certain persons or entities. For example, the equine activity immunity statute generally provides immunity to equine professionals and organizations or facilities (such as riding clubs, 4-H clubs, stables, and fairs) for injuries caused to participants in equine activities (such as shows, fairs, rodeos, riding lessons, or hunts). The equine activity immunity does not apply in certain exceptions, including where the injury was caused by an intentional act or resulted from a wilful or wanton disregard for the person's safety, or where there was a known dangerous latent condition that was not conspicuously posted with a warning sign.

Summary: Partial immunity is provided to an owner, operator, or manager of a bovine handling facility, and the owner of bovine handled at a bovine handling facility, for personal injuries or death to a person who, knowingly and voluntarily, participates in bovine handling activities or enters the premises as a spectator of bovine handling activities.

The immunity does not apply if the injury or death was caused by an intentional act or an act or omission amounting to wilful and wanton disregard for the safety of the participant or spectator, or if the injury or death resulted from a known dangerous latent condition for which conspicuous warning signs were not posted.

"Bovine handling facility" means a cooperative, not-for-profit, outdoor facility, such as a corral, that is used for the normal and customary handling and husbandry of bovines, and does not include commercial slaughter facilities. "Bovine handling activities" means normal and customary activities associated with the handling and husbandry of bovines.

Votes on Final Passage:

House	98	0	
Senate	41	3	(Senate amended)
House	95	0	(House concurred)

Effective: June 7, 2006

SHB 2384
C 340 L 06

Concerning the state geological survey.

By House Committee on Natural Resources, Ecology & Parks (originally sponsored by Representatives Dickerson, Buck, Blake and B. Sullivan; by request of Department of Natural Resources).

House Committee on Natural Resources, Ecology & Parks
House Committee on Appropriations
Senate Committee on Natural Resources, Ocean & Recreation
Senate Committee on Ways & Means

Background: The Department of Natural Resources (DNR), through the appointed Supervisor of Geology, is responsible for maintaining the state Geological Survey (Survey). The Survey is required to meet a number of objectives, including examinations of the state's mined products, the state's water resources, the state's soil classifications, and the occurrence of natural road building materials. The Survey must also produce geological and economic maps and information deemed of value by the Supervisor of Geology. Reports and maps generated from the Survey must be made available to the general public for purchase.

Summary: The state "Supervisor of Geology" is renamed the "State Geologist." References in state law to the old title are updated to reflect the title change.

The Survey is instructed to conduct and maintain an assessment of the volcanic, seismic, landslide, and tsunami hazards in Washington. The assessment must include identification and mapping of hazards, as well as an estimation of the potential consequences and the likelihood of a geological hazard event. Technical assistance must be provided to state and local governmental agencies for interpreting and applying the assessment.

Votes on Final Passage:

House	98	0	
Senate	47	0	(Senate amended)
House	95	0	(House concurred)

Effective: June 7, 2006

HB 2386
C 144 L 06

Modifying provisions related to the commercial harvest of geoduck clams.

By Representatives B. Sullivan and Chase; by request of Department of Natural Resources.

House Committee on Natural Resources, Ecology & Parks
Senate Committee on Natural Resources, Ocean & Recreation

Background: The Department of Natural Resources designates harvest tracts and administers geoduck harvest agreements. It is unlawful to commercially harvest geoducks from bottoms shallower than 18 feet below the mean lower low water, or in an area bounded by the mean high tide and a line 200 yards seaward from and parallel to the ordinary high tide line.

The State of Washington co-manages the geoduck fishery with tribal managers under jointly-developed harvest management plans. This arrangement was established by the "Rafeedie decision" [*US v. Washington*, 873 F. Supp 1422 (1994)], named after the judge who decided the case in federal court. The Rafeedie decision, and the associated implementation plan [*US v. Washington*, 898 F. Supp 1453 (1995)], established how the court expects the state and the tribes to share equal portions of the sustainable, harvestable biomass of any shellfish species, including geoducks. The co-managers are directed by the court to enter into management plans to implement the decision and to comply with the terms of all management plans. The tribal co-managers are not subject to the state law restricting the harvest in the area 200 yards seaward from the ordinary high tide line.

Summary: The restriction preventing the commercial harvest of geoducks that lie in an area bounded by the line of ordinary high tide and a line 200 yards seaward from and parallel to the ordinary high tide line is repealed. However, vessels conducting harvest operations must remain seaward of the 200-yard line.

Votes on Final Passage:

House	98	0
Senate	49	0

Effective: June 7, 2006

SHB 2394
C 107 L 06

Including financial literacy in work activity provisions.

By House Committee on Children & Family Services (originally sponsored by Representatives Dickerson, Morrell, Appleton, Moeller, Lantz, Hasegawa, Williams, Darneille, Santos, Haler, Wallace, Walsh, McIntire and Simpson).

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

Background: WorkFirst is Washington's program of Temporary Assistance for Needy Families (TANF). Under WorkFirst, recipients of public assistance are assessed prior to referral to job search activities. Information obtained through the assessment is used to develop an individual responsibility plan (IRP) for each recipient. An IRP includes an employment goal, a plan for obtaining employment as quickly as possible, and a description of services available to enable the recipient to obtain and keep employment. Unless a good cause exemption applies, recipients of public assistance must be engaged in work or work activities as a condition of continued eligibility.

Work Activities. Federal laws governing the administration of TANF moneys require a counting of the hours an individual participates in work activities. For the purpose of counting, activities are designated as either core activities or optional activities. In general, most core activities are fully countable with few limitations. Optional activities, however, are countable only after a recipient completes a prescribed number of core activities.

Most work activities are considered core activities, including subsidized and unsubsidized employment in the public or private sector, internships required for vocational training or to obtain a license or certificate, job search and job readiness assistance, and participation in community service programs. Some work activities, however, are considered optional activities, such as job skills training, and education to obtain a diploma or general education development certificate (GED).

K-12 Financial Literacy Public Private Partnership. In 2004, the Legislature established the K-12 Financial Literacy Public Private Partnership for the purpose of assisting school districts in their efforts to ensure students are financially literate. Contributions from private partners have reached approximately $30,000. The partnership meets monthly, and the Office of the Superintendent of Public Instruction is recruiting for a half-time position to assist the partnership in its efforts to coordinate availability of financial literacy resources.

Summary: The assessment used to develop the individual responsibility plan (IRP) for WorkFirst participants must include consideration of the potential benefit to the individual of engaging in financial literacy activities. The definition of work activities is expanded to include financial literacy activities designed to assist a participant in becoming self-sufficient and financially stable. Financial literacy activities may be included in an IRP as either a core activity or an optional activity. The Department of Social and Health Services is directed to consider the local options available to WorkFirst participants for financial literacy activities, including options and resources made available through the K-12 Financial Literacy Public Private Partnership.

Votes on Final Passage:

House	98	0
Senate	45	0

Effective: January 1, 2007

SHB 2402
C 205 L 06

Providing for expedited processing of energy facilities and alternative energy resources.

By House Committee on Technology, Energy & Communications (originally sponsored by Representatives Morris, Hudgins and B. Sullivan).

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

Background: Energy Facility Site Evaluation Council. The Energy Facility Site Evaluation Council (EFSEC) was created in 1970 to provide one-stop licensing for large energy projects. The EFSEC's membership includes mandatory representation from five state agencies and discretionary representation from four additional state agencies. The EFSEC's membership may include representatives from the particular city, county, or port district where potential projects may be located. "In reviewing facility siting applications, the EFSEC must determine whether or not a proposed site is consistent and in compliance with county or regional land use plans or zoning ordinances."

The EFSEC's jurisdiction includes the siting of large intrastate natural gas and petroleum pipelines, electric power plants above 350 megawatts, new oil refineries, large expansions of existing facilities, and underground natural gas storage fields. For electric power plants, the EFSEC's jurisdiction extends to those associated facilities that include new transmission lines that operate in excess of 200 kilovolts and are necessary to connect the plant to the Northwest power grid.

Alternative Energy Resource Facilities. Developers of energy facilities that exclusively use alternative energy resources, regardless of the size of the facility's generation capacity, may choose to use the EFSEC process to site the facility. "Alternative energy resources"

include wind, solar, geothermal, landfill gas, wave or tidal, untreated wood, and field residues.

Expedited Processing. A siting application may be expeditiously processed if the following criteria are not significant enough to warrant the EFSEC's full review: (1) the environmental impact of the proposed energy facility; (2) the area potentially affected; (3) the cost and magnitude of the proposed energy facility; and (4) the degree to which the proposed energy facility represents a change in use of the proposed site. The expedited process does not apply to alternative energy resource facilities. Under the EFSEC process, the applicant is required to pay the costs of the EFSEC in processing an application.

Summary: Expanding Expedited Processing to Alternative Energy Resource Facilities. Al alternative energy resource facility may apply for expedited processing of its siting application.

Modifying Expedited Processing. The EFSEC may grant an applicant expedited processing of any siting application for certification upon finding that: (1) the environmental impact of the proposed energy facility is not significant or will be mitigated to a nonsignificant level under the State Environmental Policy Act; and (2) the project is found to be consistent and in compliance with city, county or regional land use plans or zoning ordinances. Once the applicant has been awarded expedited processing the EFSEC is not required to commission an independent study to further measure the consequences of the proposed energy facility or alternative energy resource facility on the environment.

Municipal Land Use Plans and Ordinances. City land use plans and zoning ordinances, as well as such county and regional plans and ordinances, must be considered by the EFSEC in reviewing an application, whether or not expedited processing is used.

Votes on Final Passage:

House	93	3	
Senate	45	0	(Senate amended)
House	97	0	(House concurred)

Effective: June 7, 2006

HB 2406
C 25 L 06

Changing insurance statutes, generally.

By Representatives Roach and Kirby; by request of Insurance Commissioner.

House Committee on Financial Institutions & Insurance
Senate Committee on Financial Institutions, Housing & Consumer Protection

Background: The Insurance Commissioner (Commissioner) is authorized to regulate insurance in Washington. This includes oversight of financial solvency, licensing of agents and brokers, approval of insurance rate and form (contract) filings, collection of premium taxes, and responding to consumer complaints.

Washington's financial solvency system is accredited by the National Association of Insurance Commissioners (NAIC). Accredited insurance departments are reviewed every five years to ensure they continue to meet baseline standards. The accreditation standards require that insurance departments have adequate statutory and administrative authority to regulate an insurer's corporate and financial affairs, and that they have the necessary resources to carry out that authority. If a state is not accredited, the domestic insurers in that state may be subject to independent financial exams by every other state.

Actuarial Opinions. Life insurers are required to annually file an actuarial opinion regarding whether "the reserves and related actuarial items held in support of the policies and contracts specified by the commissioner by rule are computed appropriately, are based on assumptions that satisfy contractual provisions, are consistent with prior reported amounts, and comply with applicable laws of this state." Life insurers must include an opinion on whether the reserves and items held in support of the policies and contracts "make adequate provision for the company's obligations under the policies and contracts, including but not limited to the benefits under and expenses associated with the policies and contracts."

Other insurers are not required to file similar reports in the ordinary course of business.

Financial Statements. All authorized insurers (domestic, foreign, and alien) must file annual financial statements with the Office of the Insurance Commissioner (OIC). Financial statements are also filed with the National Association of Insurance Commissioners. The statements must be filed before the first day of March.

Risk-Based Capital (RBC) Reports. All insurers must file reports that use formulas to assess their solvency and the nature of the risk of their business. If the reports do not meet a specific threshold, a correlative action may be taken by the Commissioner. The steps are progressive and range from additional reports to a takeover of a company. The first step is called a "company action level event" where the insurer must submit a report that identifies what led to the situation, corrective action to remedy the situation, and a projection of financial results with and without the corrective actions. Insurers may face an action level event if the RBC result does not exceed twice the "authorized control level."

Life insurers also are subject to a "company action level event" if their RBC result is not more than 2.5 times the "authorized control level" and their report indicates a negative trend.

Health Carrier Compensation Report. Health carriers must file a supplemental compensation report with

the OIC. The report must detail the names and compensation of officers, directors, and trustees.

Fire Marshal. The Commissioner was, at one point, also the Fire Marshal for the State of Washington. These duties were later largely transferred to the Washington State Patrol (WSP). The Chief of the WSP is now required to appoint a Director of Fire Protection (a new title for the old position of Fire Marshal).

A chapter in the Insurance Code is still dedicated to state fire protection. Additionally, the Commissioner is required to establish uniform rates governing payments to fire districts from school districts for fire protection.

Group Life. In 2005, a statute related to group life insurance was amended in two separate bills. The amendments addressed the same issues but the language was not the same.

Flood Insurance Education and Training. Insurance agents have pre-licensure education and continuing education requirements as a part of receiving and maintaining a license. The federal Flood Insurance Reform Act of 2004 imposed additional training and education requirements for agents who sell flood insurance. The requirements were established by the Director of the Federal Emergency Management Agency (FEMA) in cooperation with the insurance industry, state insurance commissioners, and interested parties. Those requirements were published in the Federal Register on September 1, 2005 (Volume 70, Number 169).

TRICARE Supplement Health Insurance. TRICARE is the U.S. Department of Defense's (DOD) worldwide health care program for uniformed service members and their families. TRICARE coverage is available to service members upon their retirement, even if they subsequently become employed. The Public Employee Benefits Board (PEBB) provides health coverage for state and other public employees. However, many of those who are subsequently employed by the state or other public employers choose PEBB coverage instead of TRICARE coverage. In 2005, the Legislature allowed the Health Care Authority (HCA) through the PEBB to offer a TRICARE supplement. Retired military personnel employed by the state might choose their DOD-funded TRICARE coverage, leaving the state to pay only for the less costly supplemental benefits.

Written Rejection of Underinsured Motorist Coverage. Automobile insurance must include coverage for damages resulting from underinsured motor vehicles. An insurer must provide protection for insureds who are legally entitled to recover damages for bodily injury, death, or property damage from owners or operators of underinsured motor vehicles, hit-and-run motor vehicles, and phantom vehicles. Generally, the amount of coverage must be in the same amount as the insured's third party liability coverage unless the insured or his or her spouse rejects all or part of the coverage. A rejection must be in writing. The rejection requirement applies only to original issuance of policies. It does not apply to renewal or replacement policies.

Summary: Actuarial Opinions. Property and casualty insurers doing business in Washington are required to annually file a statement of actuarial opinion in accordance with instructions adopted by the NAIC. This statement is a public document.

Every property and casualty insurer domiciled in Washington must also annually submit an actuarial opinion summary in accordance with instructions adopted by the NAIC. Every authorized property and casualty insurer that is not domiciled in Washington must provide an actuarial opinion summary upon request of the Commissioner.

An actuarial report and underlying work papers as adopted by the NAIC must be filed with each actuarial opinion.

The actuarial opinion summary, actuarial report, and underlying work papers and any other related documents or materials are confidential. They are not subject to disclosure, or subpoena, or discovery. They are not admissible in evidence in a private civil action.

Financial Statements. Only domestic insurers must file financial statements with the OIC. The statements must be filed on or before the first day of March.

Risk-Based Capital (RBC) Reports. Property and casualty insurers also are subject to a "company action level event" if their RBC result is not more than three times the "authorized control level" and their report indicates a negative trend under the trend test calculation in the RBC instructions.

Health Carrier Compensation Report. The health carrier compensation report does not have to be filed with the OIC if substantially similar information is filed with the OIC or the NAIC.

Fire Marshal. The chapter of statute in the Insurance Code dealing with state fire protection is recodified; this moves the chapter from the Insurance Code to the chapter that addresses the WSP.

The requirement to establish uniform rates governing payments to fire districts from school districts for fire protection is transferred from the Commissioner to the Chief of the WSP through the Director of Fire Protection.

Group Life. The two session laws from 2005 dealing with group life insurance are reenacted and amended into the same form.

Flood Insurance Education and Training. Washington state agents who sell flood insurance policies must comply with the federal rules as established or as subsequently changed by FEMA.

Upon request, licensed insurers must demonstrate to the Commissioner that their licensed and appointed agents who sell federal flood insurance are in compliance with the minimum standards established by the FEMA.

TRICARE Supplement Health Insurance. A reference to TRICARE supplement health insurance is added to the list of exceptions under the definition of "health plan" or "health benefit plan."

Written Rejection of Underinsured Motorist Coverage. A written rejection is not required when a named insured or spouse chooses a coverage amount that is less than the third party liability coverage for property damage.

Miscellaneous Report Requirements Repealed. The provisions related to the 1995 RBC report by property and casualty insurers and related to the 1998 RBC report by health insurers are repealed.

Votes on Final Passage:

House 96 0
Senate 45 0

Effective: June 7, 2006
December 31, 2007 (Sections 1-4)

SHB 2407
C 130 L 06

Revising provisions relating to electronic monitoring of sex offenders.

By House Committee on Criminal Justice & Corrections (originally sponsored by Representatives Lovick, Strow, O'Brien, Ericks, Dunshee, Linville, Grant, Lantz, Kessler, Williams, Blake, Morrell, Rodne, Hunt, Conway, P. Sullivan, Springer, Takko, Kilmer, Fromhold, B. Sullivan, Hunter, Simpson, Green, Miloscia, Sells, Upthegrove, Campbell and Ormsby).

House Committee on Criminal Justice & Corrections
House Committee on Appropriations
Senate Committee on Human Services & Corrections
Senate Committee on Ways & Means

Background: Sex offenders who commit a first "two-strikes" offense after September 2001, and those who committed one "two-strikes" offense prior to September 2001 and subsequently commit any non-strike sex offense, are subject to determinate-plus sentencing. Rather than a definitive number of days, a determinate-plus sentence consists of a minimum and maximum term of confinement. The minimum term is generally set within the standard sentencing range, which takes into account the seriousness of the offense and the offender score. The maximum term is equal to the statutory maximum for the offense. Statutory maximums are life in prison for a Class A felony, 10 years for a Class B felony, and five years for a class C felony. After serving the minimum term, the offender is subject to the jurisdiction of the Indeterminate Sentence Review Board (ISRB) through the end of the maximum term.

An offender will be released from custody after serving the minimum term unless the ISRB finds the offender more likely than not to commit a future predatory sex offense. When the offender is released, he or she will be in community custody until the expiration of the maximum term. The obligations of community custody must include certain conditions, such as reporting to a community corrections officer and obtaining residence approval from the Department of Corrections (Department).

The term "community custody" refers to the period following release from total confinement in which an offender is supervised by the Department. Community custody is that portion of an offender's sentence served in the community, subject to conditions imposed by the sentencing court and the Department. An offender may be sanctioned administratively by the Department for violating his or her conditions of release.

Certain crimes, including sex offenses not qualifying for determinate-plus sentencing, serious violent offenses, crimes against a person, and some drug offenses carry a mandatory term of community custody. Unless waived by the court, certain mandatory conditions are required to be included in the term of community custody. Special conditions, such as crime-related prohibitions, may also be included. The Department assesses an offender's risk of re-offense, and may modify or impose conditions of community custody in addition to those imposed by the court, provided they do not contravene or decrease the court's order. For example, the Department may require an offender to participate in rehabilitative programs or perform affirmative conduct according to the offender's risk of re-offense.

An offender accused of violating a condition of community custody is entitled to a hearing before the Department before sanctions are imposed. If an offender is found to be in violation of a condition of community custody, the Department may transfer the offender to a more restrictive confinement status to serve up to the remaining portion of the sentence, less credit for any time actually spent in community custody.

Summary: Upon recommendation by the Department, the ISRB may impose electronic monitoring as a condition of community custody for determinate-plus sex offenders. The Department may impose electronic monitoring for offenders serving a term of community custody pursuant to conviction for a sex offense not qualifying for determinate-plus sentencing. Electronic monitoring is defined as the monitoring of an offender using an electronic tracking system using radio frequency or active or passive global positioning technology. The Department is required to carry out any electronic monitoring condition using the most appropriate monitoring technology given the individual circumstances of the offender, within resources made available by the Department for this purpose.

Votes on Final Passage:

House	95	1	
Senate	49	0	(Senate amended)
House	98	0	(House concurred)

Effective: June 7, 2006

HB 2409
C 126L 06

Changing the provisions relating to sex and kidnapping offender registration.

By Representatives O'Brien, Rodne, Ericks, Lovick, Anderson, Jarrett, Nixon, McDonald, Williams, Darneille, Buck, Conway, P. Sullivan, Tom, Takko, Lantz, Kilmer, Fromhold, B. Sullivan, Morrell, Simpson, Springer, Green, Miloscia, Sells and Ormsby.

House Committee on Criminal Justice & Corrections
Senate Committee on Human Services & Corrections

Background: I. Sex and Kidnapping Offender Registration. In 1990, the Legislature enacted the Community Protection Act, which, among other things, created a sex offender registry in Washington. A sex or kidnapping offender must register with the county sheriff in the county in which he or she resides. The offender must also notify the sheriff when he or she enrolls in a public or private school or an institution of higher education. Law enforcement officials use the information in the registry to notify the public, within certain guidelines, of a sex offender's presence in the community.

Information Provided upon Registration. When an offender registers, he or she must provide a variety of information including his or her name, address (a homeless offender must provide a description of where he or she plans to stay), date and place of birth, place of employment, crime of conviction, date and place of conviction, aliases used, Social Security number, photograph, and fingerprints.

Out-of-State Registrants. An offender subject to the registration requirements who moves to Washington from another state, or who is a former Washington resident returning to this state, must register within 30 days of establishing a residence in Washington.

Written Notices. A registered sex or kidnapping offender who changes addresses within a county must send written notice to the county sheriff within 72 hours of moving. If the offender moves to a new county, he or she must provide written notice to the sheriff of the new county at least 14 days prior to moving and must provide written notice to the sheriff of the old county within 10 days of moving. An offender who becomes homeless must send written notice to the county sheriff within 48 hours of becoming homeless.

Criminal Penalties. An offender who knowingly fails to register or notify the county sheriff, or who changes his or her name without notifying the county sheriff or the Washington State Patrol, is guilty of a crime. The offender is guilty of an "unranked" class C felony (zero-12 months in jail, a fine of up to $10,000, or both) if the crime that caused the person to register was a felony. The person is guilty of a gross misdemeanor (zero-12 months in jail, a fine of up to $5,000, or both) if the crime that caused the person to register was a misdemeanor or a gross misdemeanor.

II. Criminal Trespass Against Children. An owner, employee, or agent of a public or private facility, whose primary purpose is to provide for the education, care, or recreation of children, may order a "covered offender" from the premises of the facility. When the facility orders a covered offender to leave the premises, it must provide written notice to the offender that: (1) he or she must leave the premises; and (2) he or she will be subject to criminal liability if he or she refuses to leave or returns.

"Covered offender" is defined as a person who is at least 18 years of age, who is not under the jurisdiction of the Juvenile Rehabilitation Administration of the Department of Social and Health Services or serving a Special Sex Offender Disposition Alternative, who has been assessed as being a risk level II or III, and who has been convicted of certain crimes.

A covered offender is guilty of criminal trespass against children if he or she receives written notice that he or she must leave a facility and remains within or reenters the facility without written permission. Criminal trespass against children is an unranked class C felony for a first offense. A second or subsequent offense is a class C felony with a seriousness level of IV.

A facility is immune from civil liability for damages arising from ejecting, or failing to eject, a covered offender.

Summary: I. Sex and Kidnapping Offender Registration. *Information Provided upon Registration* Instead of requiring the offender to provide his or her "address" when registering, the offender is required to provide his or her "complete residential address."

Out-of-State Registrants. The amount of time an out-of-state registrant is given to register once he or she has established a residence in Washington is decreased to 72 hours (from 30 days).

Written Notices. The written notices that must be provided to the county sheriff when an offender moves or becomes homeless must be signed.

Criminal Penalties. A person is subject to criminal liability for any knowing non-compliance with the registration statute.

II. Criminal Trespass Against Children. The following changes are made to the crime of criminal trespass against children:

- The definition of "covered offender" is narrowed to include only offenders: (1) who are registered sex

offenders; and (2) who meet all of the other criteria in the original definition.
- Language is added to clarify the circumstances in which a covered entity may give written permission to a covered offender to come back on the premises. The entity may give written permission of entry and use to a covered offender to enter and remain on the legal premises of the entity at particular times and for lawful purposes, including, but not limited to, conducting business, voting, or participating in recreational or educational activities.
- A person who is ejected from a covered entity may file a petition in district court alleging that he or she does not meet the definition of a covered offender. The district court must conduct a hearing on the petition within 30 days in which the person has the burden of proving that he or she is not a covered offender. If the court finds, by a preponderance of the evidence, that the person is not a covered offender, the court must order the covered entity to rescind the written notice that ejected the person and must order the covered entity to pay the person's costs and reasonable attorneys' fees.
- The crime of criminal trespass against children is changed to an "un-ranked" class C felony. This means that a person committing the crime will face a jail sentence of 0-12 months.

Votes on Final Passage:

House	96	0	
Senate	45	1	(Senate amended)
House			(House refused to concur)
Senate			(Senate receded)
Senate	47	0	(Senate amended)
House	98	0	(House concurred)

Effective: June 7, 2006
September 1, 2006 (Section 2)
March 20, 2006 (Sections 1 and 3-7)

SHB 2414
C 175 L 06

Regarding local control and flexibility in the state assessment system.

By House Committee on Education (originally sponsored by Representatives Haler, Talcott and McCune).

House Committee on Education
Senate Committee on Early Learning, K-12 & Higher Education

Background: Under the federal No Child Left Behind Act (NCLB) of 2001, in order to receive federal funds under Title I, each state must annually submit a plan to the U.S. Department of Education (DOE) that details the state's system of academic standards, assessments, and accountability. By the 2005-06 school year, each state's assessment system must include yearly assessments of students in each of grades three through eight in reading and mathematics, plus at least one assessment of these subjects for high school students. By 2007-08, assessments in science must be administered in at least one elementary, middle, and high school grade.

Under state law, Washington's assessment system already includes the Washington Assessment of Student Learning (WASL) in reading, writing, and mathematics at grades four, seven, and 10, as well as a science assessment in grades five, eight, and 10. Therefore, the additional testing requirement to comply with the NCLB will be reading and mathematics assessments administered in grades three, five, six, and eight.

Under DOE rules, a state's system can be based on a uniform set of statewide assessments or a combination of state and local assessments. However, if local assessments are included, the state must assure they meet the same characteristics as a state assessment, and the results can be aggregated and compared across the state. The state must also demonstrate that its overall system has a rational and coherent design.

Under Washington's NCLB plan, the Superintendent of Public Instruction (SPI) has proposed and is implementing a uniform set of statewide assessments, using the WASL in reading and mathematics at each grade level required to be assessed under the NCLB.

Summary: Before the beginning of the 2006-07 school year, the SPI must request flexibility under the NCLB to conduct a pilot project with no more than six school districts using an assessment other than the WASL in grades three, five, six, and eight in mathematics and reading. The SPI will work with local school directors, administrators, teachers, and parents in developing the request and selecting the assessment. The districts in the pilot project must be of varying sizes and geographic locations, including urban, suburban, and rural areas. They must also enroll ethnically and economically diverse student populations.

If the request for flexibility is granted, the SPI will revise the state accountability plan to incorporate the pilot project. School districts in the pilot project will not be required to administer the WASL in reading and mathematics in grades three, five, six, and eight during the pilot. At the end of the pilot project, the SPI will evaluate whether the piloted assessment can be used on a statewide basis and forward findings and recommendations to the Legislature and the U.S. DOE.

Votes on Final Passage:

House	97	1
Senate	48	0

Effective: June 7, 2006

SHB 2415
C 187 L 06

Compensating the victims of uninsured and underinsured motorists.

By House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Ericks, Roach, Kirby, Morrell, Green, Nixon, McDonald, Hasegawa, Conway, Simpson, Ormsby and Schual-Berke; by request of Insurance Commissioner).

House Committee on Financial Institutions & Insurance
Senate Committee on Financial Institutions, Housing & Consumer Protection

Background: Definition of Underinsured Motor Vehicle. An "underinsured motor vehicle" is defined as a vehicle in which the party legally responsible (by virtue of ownership, maintenance, or use) for the bodily injury or property damage has either no insurance coverage or insufficient coverage to cover the full amount of the damage costs to which the injured party is legally entitled.

Requirements for Automobile Policies. Automobile insurance must include coverage for damages resulting from underinsured motor vehicles. An insurer must provide coverage for insureds who are legally entitled to recover damages for bodily injury, death, or property damage from owners or operators of underinsured motor vehicles, hit-and-run motor vehicles, and phantom vehicles. State law requires the coverage to apply to "accidents."

"Accident" as Applied in Underinsured Motorist Coverage. Washington case law has held that an "accident" is not viewed through the eyes of the insured in underinsured motorist coverage. It is not an accident for the purpose of coverage merely because the insured victim does not expect or intend the event that caused harm. Generally, an intentional act by a motorist that leads to an unexpected or unintended result is not covered.

Summary: "Accident" is defined as an occurrence that is unexpected and unintended from the standpoint of the covered person. This definition of "accident" is to be used in the statute and in the section of policies providing uninsured motorist coverage. "Underinsured coverage" is defined as coverage for underinsured motor vehicles.

An insurer is required to provide underinsured coverage whether or not an incident was intentional unless the insurer can demonstrate that the covered person intended to cause the damage for which the covered person is seeking coverage. If the covered person was the intended victim of the tortfeasor, the incident must be reported to law enforcement and the covered person must cooperate with any related investigation.

Votes on Final Passage:

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

Effective: June 7, 2006

SHB 2416
C 141 L 06

Concerning state park fees.

By House Committee on Natural Resources, Ecology & Parks (originally sponsored by Representatives Kessler, Hasegawa, Hunt, Haigh, McIntire, Dunshee, B. Sullivan and Takko).

House Committee on Natural Resources, Ecology & Parks
House Committee on Appropriations
Senate Committee on Natural Resources, Ocean & Recreation
Senate Committee on Ways & Means

Background: The Washington State Parks and Recreation Commission (Commission) is granted authority to care for and supervise the state parks system. The Commission also has the authority to charge fees for the use of facilities. On January 1, 2003, the Commission authorized a $7 daily parking fee and a $70 annual parking pass, discounted to $5 per day and $50 per year until January 2008. Moneys collected from parking fees are deposited into the Parks Renewal and Stewardship Account and are used for state parks' operations, development, and renovations.

Summary: The Commission is prohibited from charging a fee for parking or for general park access.

Votes on Final Passage:

House	94	2	
Senate	40	5	(Senate amended)
House			(House refused to concur)
Senate	43	4	(Senate amended)
House	96	2	(House concurred)

Effective: April 9, 2006

E2SHB 2418
PARTIAL VETO
C 349 L 06

Increasing the availability of affordable housing.

By House Committee on Capital Budget (originally sponsored by Representatives Springer, Miloscia, Chase, Morrell, Hasegawa, Darneille, Santos, P. Sullivan, Kagi, Green, Sells, Ormsby and O'Brien).

House Committee on Housing

House Committee on Capital Budget
Senate Committee on Financial Institutions, Housing & Consumer Protection
Senate Committee on Ways & Means

Background: Housing Trust Fund. The State of Washington distributes funding for housing programs through the Department of Community and Economic Development's (DCTED) Housing Trust Fund. Housing projects must serve low-income and special needs populations. Grants and loans are awarded on a competitive basis.

The 2005-2007 budget includes a total appropriation of $100 million for the Housing Trust Fund. Of this amount, $33 million is designated for specific set-asides.

According to the DCTED, housing projects representing requests for over $45 million in Housing Trust Fund assistance are currently deemed eligible and await the availability of funding. These projects represent the potential development of approximately 2,300 units of affordable housing.

Joint Housing Authorities. A joint housing authority is authorized when the legislative authorities of one or more counties and the legislative authorities of any city or cities within any of those counties, or in another county or counties, have authorized such joint housing authority by ordinance. The ordinance must prescribe the number of commissioners, the method for their appointment and length of their terms, the election of officers, and the method for removal of commissioners. The ordinance must also prescribe the allocation of all costs of the joint housing authority.

There is no process or guidelines in statute for the dissolution of joint housing authorities.

Summary: The Legislature may authorize a transfer of up to $25 million from the General Fund into the Washington Housing Trust Fund for the fiscal year ending June 30, 2006.

Any appropriated funding will be included in the calculation of annual funds available to the DCTED for determining administrative costs.

Funds will be distributed using the DCTED's competitive process for the Housing Trust Fund except for the following:

- any funds applied to the Homeless Family Services Fund;
- any funds appropriated to weatherization administered through the Energy Matchmakers Program;
- any funds appropriated for a housing voucher program; and
- any funds for grower-provided on-farm housing.

The DCTED must report annually by December 31, 2007, to the House Housing Committee and the Senate Financial Institutions, Housing and Consumer Protection Committee on how funds were utilized on a county or city specific basis.

Interagency Council on Homelessness. The Interagency Council on Homelessness (IACH) is created which will be made up of policy level representatives from five state agencies. The IACH will work to create greater levels of interagency coordination regarding programs serving homeless households, identify policies that may contribute to homelessness, and recommend policies to improve practices or align resources related to homelessness.

Washington Homeless Client Management System. The DCTED is required to implement the Washington Homeless Client Management System by December 31, 2009. The system will include information from the Washington homeless census, from state agencies, and from organizations providing services to the homeless population. Information will be collected in a manner consistent with federal informed consent guidelines regarding human research. The information system is to serve as an on-line information and referral system.

Local governments must develop a capacity for continuous case management to assist homeless persons.

Low-Income Housing Waiting-List Study. The DCTED is directed to conduct a study by December 31, 2007, to evaluate the potential development of a low-income housing waiting list database.

Affordable Housing Database. The DCTED is required to create or purchase and implement a database which includes information on all publicly supported affordable rental units in the state by December 31, 2009.

Housing Stakeholder Feedback. Entities receiving state housing funds, or financing through the Housing Finance Commission, are asked to provide feedback to the Legislature regarding planning and reporting requirements, as well as other housing-related legislative recommendations.

Joint Housing Authority Dissolution. Joint Housing Authorities may be dissolved pursuant to substantially identical resolutions or ordinances of the legislative authority of each of the counties or cities that previously authorized that joint housing authority. Assets, obligations, and liabilities must be distributed consistent with specific considerations outlined in statute.

Null and Void. Implementation of the activities of the act is contingent upon specific funding for the specific activities of the act from the General Fund.

Votes on Final Passage:

House	72	24	
Senate	48	1	(Senate amended)
House	74	24	(House concurred)

Effective: June 7, 2006

Partial Veto Summary: The section requiring the Department of Community, Trade, and Economic Development (DCTED) to conduct a study to evaluate the potential development of a low-income housing waiting list database was vetoed. The section requiring DCTED to create or purchase a master affordable housing data-

base that includes information about affordable rental housing stock was also vetoed. The null and void clause was vetoed.

VETO MESSAGE ON E2SHB 2418

March 30, 2006

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

Ladies and Gentlemen:

I am returning, without my approval as to Sections 9, 10 and 14, Engrossed Second Substitute House Bill No. 2418 entitled:

"AN ACT Relating to affordable housing."

The Department of Community, Trade, and Economic Development (CTED) is required in Section 9 of the bill to conduct a study to evaluate the potential development of a voluntary statewide, low-income housing waiting list database. The database would include information on all low-income households requesting housing assistance, for the purpose of connecting such households with appropriate housing opportunities. CTED is also required in Section 10 to create or purchase, and implement by December 31, 2009, a master affordable housing database that includes specific information about existing affordable rental housing stock in the state of Washington. The activities outlined in Sections 9 and 10 of the bill are likely to create funding pressures for future biennial budgets.

Section 14 requires specific funding to be transferred from the General Fund to the Washington Housing Trust Fund by June 30, 2006, or the Act will be null and void. However, the transfer authorized by the Legislature in the Operating Budget bill occurs after June 30, 2006.

As funding provided in the Operating Budget related to this bill is insufficient, CTED will not be able to implement all of the activities contemplated. Notwithstanding this, CTED should do all that it can with the funding available to achieve the objectives of this bill.

For these reasons, I have vetoed Sections 9, 10 and 14 of Engrossed Second Substitute House Bill No. 2418.

With the exception of Sections 9, 10 and 14, Engrossed Second Substitute House Bill No. 2418 is approved.

Respectfully submitted,

Christine O. Gregoire
Governor

SHB 2419
C 5 L 06

Raising funds for hosting the national conference of lieutenant governors.

By House Committee on State Government Operations & Accountability (originally sponsored by Representatives Haigh, Nixon, Clibborn and McDermott; by request of Lieutenant Governor).

House Committee on State Government Operations & Accountability

Background: The State Ethics Act prohibits state officers and state employees from accepting gifts with an aggregate value of $50 or more during any calendar year from any single source. Gifts may not be accepted under circumstances where the gifts would be considered as part of a reward for action or inaction, or could be reasonably expected to influence the state officers and employees' actions or official judgment.

For the purposes of hosting a national legislative association conference in Washington, legislative officers and employees may solicit and accept gifts, grants, or donations without regard to the $50 limitation.

Summary: The State Ethics Act is changed to allow the Lieutenant Governor and his or her staff to solicit and accept gifts, grants, or donations beyond the $50 limitation for purposes of hosting the 2006 official conference of the National Lieutenant Governors' Association.

Votes on Final Passage:

House	93	2
Senate	48	0

Effective: February 7, 2006

HB 2424
C 7 L 06

Providing sales and use tax exemptions for users of farm fuel.

By Representatives Grant, Kessler, Williams, Morrell, Condotta, Clibborn, Linville, Cox, Hunt, Buck, Conway, Haigh, Sump, P. Sullivan, Walsh, Springer, Buri, Haler, Newhouse, Ericksen, Morris, Ericks, Kretz, Strow, B. Sullivan, Dunn, Upthegrove, Ormsby, McDermott, Holmquist and Takko.

House Committee on Finance
Senate Committee on Agriculture & Rural Economic Development
Senate Committee on Ways & Means

Background: Sales tax is imposed on the retail sales of most items of tangible personal property and some services. The use tax is imposed on the privilege of using tangible personal property or services in instances where the sales tax does not apply. Sales and use taxes are levied by the state, counties, and cities, and total rates vary from 7 to 8.9 percent. The state portion of the tax is deposited in the State General Fund.

Motor vehicle fuel (gasoline) and special fuel (primarily diesel) are exempt from sales and use tax when the motor vehicle and special fuel taxes apply. Special fuel used for off-road business purposes is exempt from the special fuel tax and so becomes subject to the retail sales and use tax.

Federal law requires diesel fuel used for off-road business purposes to be dyed. Diesel fuel that is exempt from highway fuel taxes is often called "red dyed fuel."

Aircraft fuel users are taxed at eleven cents per gallon of aviation fuel. The revenue is deposited in the Aeronautics Account and is used for the administration of the DOT Aviation Division, airport construction and

maintenance, and local airport aid. The tax does not apply to fuel used in aircraft used principally for the application of pesticides, herbicides, or other agricultural chemicals that operate from a private, non-state-funded airfield. This fuel is subject to the sales and use tax.

Summary: Diesel and aircraft fuel used by farmers for non-highway farm activities is exempt from sales and use tax. The exemption also covers diesel and aircraft fuel used for soil preparation services, crop cultivation services, and crop harvesting services. The exemption does not cover fuel used for home heating.

Votes on Final Passage:

House	96	1	
Senate	44	4	(Senate amended)
House	97	1	(House concurred)

Effective: March 6, 2006

SHB 2426
C 346 L 06

Modifying utilities and transportation commission provisions.

By House Committee on Technology, Energy & Communications (originally sponsored by Representative Morris; by request of Utilities & Transportation Commission).

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

Background: The Washington Utilities and Transportation Commission (WUTC) is a quasi-judicial and quasi-legislative state agency that regulates the rates, services, and practices of privately owned utilities and transportation companies. The WUTC is led by three commissioners appointed by the Governor and confirmed by the Senate for staggered six-year terms.

If a commissioner position should become vacant, the Governor may appoint a replacement subject to the confirmation process. However, there is no provision for the appointment of pro tem commissioners that can serve for a specified time or on a particular case. This is unlike the court system, which is permitted to appoint *pro tem* judges.

When the WUTC initiates a complaint against a regulated company, it must be preceded by a determination of probable cause by the commissioners. The determination is based on evidence provided by staff. If probable cause is found, the complaint will be heard by the same commissioners at an adjudicative hearing.

Commissioners personally preside in adjudicative hearings or they make final decisions based on the initial determinations of administrative law judges (ALJs). The WUTC must enter an order confirming the result of initial orders, even if no appeal is sought.

Two to three times a month, the WUTC convenes regularly scheduled meetings, called "open meetings," to process various filings. During an open meeting, commission staff present their analyses and recommend orders on various agenda items. According to the WUTC, the majority of items are uncontested and require little discretion on the part of the commissioners.

Unlike ALJs at some agencies, such as the Office of Administrative Hearings, Department of Health, and the Environmental Hearings Office, the ALJs at the WUTC are not exempt from civil service provisions.

Summary: A process for the appointment of pro tem commissioners is established. At the request of the WUTC, the Governor may appoint a pro tem commissioner to allow a commissioner whose term has expired to complete an adjudicative proceeding that he or she has substantially heard.

The WUTC is given delegation authority for certain duties. Commissioners may delegate responsibility to designated assistants for "any of the powers and duties vested in or imposed upon the commission by law," except matters governed by the Administrative Procedures Act. A matter may not be delegated to any person who has worked as an advocate on the same docket. All matters will still be heard or reviewed by the commissioners upon request of an affected party.

Provisions concerning final orders and the civil service status of ALJs are specified. In general, initial orders of ALJs will become final if no review is sought. Commissioners may appoint ALJs that are exempt from the civil service law, but they are still subject to discipline and termination for cause.

Votes on Final Passage:

House	97	0
Senate	40	9

Effective: June 7, 2006

SHB 2446
C 121 L 06

Permitting certain school district substitute employee contracts.

By House Committee on Local Government (originally sponsored by Representatives Buri, Sump and Haler).

House Committee on Local Government
Senate Committee on Early Learning, K-12 & Higher Education

Background: Classification of School Districts. The Superintendent of Public Instruction is responsible for the classification of school districts based upon student enrollment figures. A school district with a student enrollment of 2,000 or more pupils is classified as a first class school district. All school districts with enrollments of less than 2,000 students are classified as second

class school districts.

Prohibition Against Municipal Officers Having Beneficial Interests in Public Contracts. State statute prohibits a municipal officer from having a beneficial interest, whether direct or indirect, in any public contract that he or she is involved in creating. In addition, a municipal officer is prohibited from receiving any compensation in connection with such a contract from any other person with a beneficial interest. A "municipal officer" is broadly defined to include any elected or appointed officer of a local government, district, or municipal corporation, or any deputy or assistant to such officer, and all persons undertaking the exercise of the powers or functions of a municipal officer. An officer or employee of a school district would be included in the definition of "municipal officer."

Exceptions are made to this general prohibition with respect to certain contractual arrangements meeting specified criteria, including but not limited to the following:

- leasing arrangements made by port districts;
- contracts involving payment of less than $1,500 per month;
- employment contracts involving wages of not more than $200 per month; and
- the designation of a school director to act as clerk or purchasing agent for a school district.

Summary: An officer of a second class school district with fewer than 200 full time students may enter into an employment contract as a substitute teacher or substitute educational aide. The terms of the contract must be commensurate with the pay plan or collective bargaining agreement applicable to the district. In addition, before a school district officer may be employed as a substitute teacher or teacher's aide, the board of directors of a second class school district must make a formal finding that there is a shortage of substitute teachers in the school district.

Votes on Final Passage:

House	95	1
Senate	47	0

Effective: June 7, 2006

HB 2454
C 30 L 06

Revising the privilege for sexual assault advocates.

By Representatives Williams, Lantz, Darneille, Morrell, O'Brien and Green.

House Committee on Judiciary
Senate Committee on Judiciary

Background: The judiciary has inherent power to compel witnesses to appear and testify in judicial proceedings so that the court will receive all relevant evidence. However, the common law and statutory law recognize exceptions to compelled testimony in some circumstances, including "testimonial privileges." Privileges are recognized when certain classes of relationships or communications within those relationships are deemed of such importance that they should be protected.

Washington's privilege statute provides a number of privileges, including a privilege for communications made *by* a sexual assault victim *to* a sexual assault advocate.

A sexual assault advocate is an employee or volunteer of a rape crisis center or a victim assistance unit, program, or association that provides information, medical or legal advocacy, counseling, or support to victims of sexual assault and who is designated by the victim to accompany the victim to the hospital or other health care facility and to proceedings, including police and prosecution interviews, concerning the alleged assault.

Summary: The language in the privilege statute applicable to sexual assault victims and advocates is changed. The privilege applies to communications *made between* the victim and advocate, instead of communications made *by* the victim *to* the advocate.

Votes on Final Passage:

House	96	2
Senate	48	0

Effective: June 7, 2006

SHB 2457
C 172 L 06

Authorizing sales and use tax exemptions for replacement parts for farm machinery and equipment.

By House Committee on Finance (originally sponsored by Representatives Grant, Williams, Blake, Clibborn, Linville, Cox, Buck, Haigh, Sump, Newhouse, Walsh, Buri, Haler, Morrell, Morris, Ericks, Strow, O'Brien and Holmquist).

House Committee on Finance
Senate Committee on Agriculture & Rural Economic Development
Senate Committee on Ways & Means

Background: Sales tax is imposed on the retail sales of most items of tangible personal property and some services, including repair services. The use tax is imposed on items used in the state that were not subject to the retail sales tax and includes purchases made in other states and from sellers who do not collect Washington sales tax.

The state sales and use tax rate is 6.5 percent. In addition, cities, counties, and transit districts may impose local option sales and use taxes for general purposes as well as a variety of specific purposes. As of December 2005, local rates ranged from 0.5 percent to 2.4 percent.

Summary: Farmers with annual gross sales of agricultural products of $10,000 or more are exempt from sales and use tax on the purchase of replacement parts for farm machinery and equipment. The exemption covers machinery and equipment designed for the purpose of growing, raising, or producing agricultural products. Farmers must apply with the Department of Revenue for an exemption certificate. The certificate must be renewed every five years. The exemption includes parts for farm tractors and farm implements but not other farm vehicles. Replacement parts for aircraft, hand tools, hand-powered tools, and equipment with a useful life of less than one year are not included.

Votes on Final Passage:

House	86	10	
Senate	40	4	(Senate amended)
House	95	0	(House concurred)

Effective: July 1, 2006

HB 2465
C 306 L 06

Modifying vehicle equipment standards related to original equipment installed.

By Representatives Lovick, Kessler, P. Sullivan, Haler and O'Brien; by request of Washington State Patrol.

House Committee on Transportation
Senate Committee on Transportation

Background: All required lights and equipment on a vehicle must be in proper condition and adjustment as required by state law or rules issued by the Washington State Patrol.

Brake Lights. Vehicles must have two or more stop lamps (brake lights). Federal law requires a third rear, high-centered brake light for passenger cars manufactured after September 1, 1985, and for trucks, vans, and sports utility vehicles manufactured after September 1, 1993.

Exhaust Systems. Vehicles must be equipped with a muffler in good working order to prevent excessive or unusual noise. Exhaust systems may not be modified in a manner which amplifies engine noise above the noise emitted with the originally-installed muffler. It is unlawful for a person to operate a vehicle with exhaust noise exceeding 95 decibels. To prove a violation, proper authorities must show that an exhaust system modification results in noise amplification in excess of 95 decibels.

Summary: Clarifications are made to the requirement that all required lights and equipment on a vehicle must be in proper working condition.

Brake Lights. All passenger cars manufactured after September 1, 1985, and all passenger trucks, vans, and sports utility vehicles manufactured after September 1, 1993, must have a third stop lamp (brake light). The brake light must be a rear, center high-mounted light that meets certain visibility requirements, consistent with federal regulation.

Exhaust Systems. The prohibition against operating a motor vehicle with an exhaust system that emits a noise exceeding 95 decibels is removed. Language stating that a violation does not occur unless the proper authority proves that a vehicle's modified exhaust system exceeds 95 decibels is also removed. (Other vehicle exhaust system requirements are retained.)

Votes on Final Passage:

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

Effective: June 7, 2006

HB 2466
C 177 L 06

Providing excise tax relief for aerospace businesses.

By Representatives Lovick, McCoy, Conway, Haler, Sells, Morris, Dunshee, Ericks, Morrell, O'Brien and Green; by request of Governor Gregoire.

House Committee on Finance
Senate Committee on International Trade & Economic Development
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. Revenues are deposited in the State General Fund. A business may have more than one B&O tax rate, depending on the types of activities conducted. There are a number of different rates. The main rates are: 0.471 percent for retailing; 0.484 percent for manufacturing, wholesaling, and extracting; and 1.5 percent for professional and personal services, and activities not classified elsewhere.

Sales tax is imposed on retail sales of most items of tangible personal property and some services, including construction and repair services. Sales and use taxes are imposed by the state, counties, and cities. Sales and use tax rates vary between 7 and 8.9 percent, depending on location. There are a number of sales and use tax exemptions, including machinery and equipment directly used in manufacturing.

Property taxes are imposed by state and local governments. All real and personal property in this state is subject to the property tax based on its value, unless a specific exemption is provided by law. There are exemptions for certain properties, including property owned by federal, state, and local governments, churches, farm

machinery, and business inventory.

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

In 2003, the Legislature adopted tax incentives that were limited to aerospace manufacturers. The incentives included: a reduction in the B&O tax rate; a B&O tax credit for pre-production development expenditures; and a B&O tax credit for property taxes paid on property used in the manufacture of commercial airplanes and airplane components. A leasehold tax exemption for port district facilities is available to manufacturers of super-efficient airplanes that are not using the B&O tax credit for property taxes. Also included were sales and use tax exemptions for computer equipment and software, and its installation, used primarily in the development of commercial airplanes and components. These exemptions are scheduled to end in 2024.

Businesses that exercise any of these incentives file an annual report with the Department of Revenue (Department). The report includes employment, wage, and employer-provided health and retirement benefit information for full-time, part-time, and temporary positions. The reports are not confidential and will be made public upon request.

In 2003, the Legislature reduced the B&O tax rate from 0.484 percent to 0.275 percent for firms that repair equipment used in interstate or foreign commerce. The firms must be classified by the Federal Aviation Administration (FAA) as a Federal Aviation Regulation part 145 certificated repair station with airframe and instrument ratings and limited ratings for nondestructive testing, radio, class 3 accessory, and specialized services. The lower rate ends July 1, 2006.

Summary: The sales and use tax exemption for computer equipment and software used primarily in commercial airplane development is extended to nonmanufacturing firms. Installation is also exempt. The exemption starts July 1, 2006, and ends July 1, 2024.

The B&O tax credit for preproduction development expenditures related to commercial aircraft is extended to nonmanufacturing firms. The credit is equal to 1.5 percent of preproductions development expenditures. The credit starts July 1, 2006, and ends July 1, 2024.

The B&O tax credit for property taxes paid on property used in the manufacture of commercial airplanes and airplane components is expanded to include leasehold excise taxes. The credit starts January 1, 2007.

The reduced B&O tax rate for FAA certificated repair stations engaged in the repair of equipment used in interstate or foreign commerce is extended to July 1, 2011. The tax rate is set at 0.2904 percent.

Businesses that claim the 1.5 percent B&O tax credit for commercial aircraft preproduction development expenditures or the reduced B&O tax rate must electronically file an annual survey with the Department of Revenue (Department) by March 21. The Department may provide a filing extension if the survey is late due to circumstances beyond the control of the taxpayer.

The survey must include employment, wage, and employer-provided health and retirement benefit information. Those claiming the 1.5 percent B&O tax credit for aerospace product development expenditures must also provide information on the expenditures, assignment of the credit, and the number of research projects, products, patents, copyrights, and trademarks. The only information collected that may be disclosed is the amount of the tax incentive claimed, but claimants receiving incentives of less than $10,000 may request confidentiality of the amount claimed.

The Department must report summary statistics from the surveys annually. When taxpayer information cannot be classified to prevent the identification of individual taxpayers or returns, the Department may disclose the least amount of tax information necessary to complete the reports. Reports on the effectiveness of the incentives are due in 2010 and 2023.

Votes on Final Passage:

House	88	10	
Senate	36	7	(Senate amended)
House	95	3	(House concurred)

Effective: July 1, 2006
January 1, 2007 (Sections 10 and 11)

SHB 2471
C 252 L 06

Creating a veteran homeownership downpayment assistance program.

By House Committee on Housing (originally sponsored by Representatives McCune, Miloscia, Dunn, Campbell, Linville, Morrell, Strow, O'Brien, Green, Sells, Chase and Holmquist).

House Committee on Housing
Senate Committee on Financial Institutions, Housing & Consumer Protection

Background: Housing Finance Commission Home Buyer Programs. The Housing Finance Commission (HFC) is required in statute to provide a housing finance program for income-eligible first-time homebuyers. The HFC offers several financing programs including House Key and House Choice, which offer below-market-rate loans and down payment assistance, and also allow homebuyers to qualify for mortgages with higher loan to

income or debt ratios and pay less closing costs than under conventional loan programs.

Although not required in statute, the HFC periodically develops supplemental programs to provide additional assistance to specific targeted populations. Such populations have included teachers, low-income rural residents, residents of a specific area, and disabled individuals.

Federal Veteran Affairs Home Loan Program. The federal Veteran Affairs (VA) Home Loan Program is a loan guarantee program wherein the federal government guarantees part of the total home loan for eligible veteran home buyers. This guarantee permits a purchaser to obtain a competitive interest rate, sometimes without a down payment, depending upon the lender. The lender is protected against the loss if the borrower fails to repay the loan, up to the amount of the guaranty.

Summary: The HFC must create and implement a down payment assistance homeownership program to assist veterans in purchasing a home. This program must work in conjunction with other HFC housing finance programs.

The program will assist the following:

1) Washington veterans;
2) members and former members of the Washington National Guard and reserve; and
3) never remarried spouses, and dependent children of deceased, eligible veterans.

The statute defining veterans and referencing programs in which veterans may participate, includes a reference to the HFC downpayment assistance home ownership program.

Votes on Final Passage:

House	98	0	
Senate	49	0	(Senate amended)
House	97	0	(House concurred)

Effective: June 7, 2006

ESHB 2475

C 106 L 06

Requiring collective bargaining regarding hours of work for individual providers.

By House Committee on Commerce & Labor (originally sponsored by Representatives Conway, Williams, Fromhold, Wood, B. Sullivan, Simpson, Sells, Ormsby and Green).

House Committee on Commerce & Labor
House Committee on Appropriations
Senate Committee on Labor, Commerce, Research & Development
Senate Committee on Ways & Means

Background: Long-term Care Services Provided by Home Care Workers. The Department of Social and Health Services (DSHS) contracts with agency and individual home care workers (individual providers) to provide in-home long-term care services for elderly and disabled clients (consumers) who are eligible for publicly funded services through the DSHS's Aging and Adult Services and Developmental Disabilities programs. Home care workers provide consumers personal care assistance with various tasks such as toileting, bathing, dressing, ambulating, meal preparation, and household chores. The individual providers are hired and fired by the consumer, but are paid by the DSHS.

The Home Care Quality Authority (HCQA) has responsibility for establishing qualifications for individual providers, recruiting and training individual providers, and providing assistance to consumers in finding care by establishing a referral registry.

The DSHS "Shared Living" Rule. In implementing the long-term care services program, the DSHS adopted a rule, generally known as the "shared living" rule. Under this rule, the DSHS will not pay for services such as shopping, housework, laundry, or meal preparation if the individual provider lives in the same household with the consumer. According to hearing examiner findings in an unfair labor practice case filed with the Public Employment Relations Commission (PERC), this rule has resulted in a 15 percent deduction from the hours allotted to individual providers as compensation for their services in homes where they also reside.

Collective Bargaining for Individual Providers. Individual providers have collective bargaining rights under the Public Employees' Collective Bargaining Act (PECBA) administered by the PERC. The individual providers' exclusive bargaining representative bargains with the Governor or Governor's designee. The law explicitly states that wages, hours, and working conditions are determined solely through collective bargaining and, except for the HCQA, no state agency may establish policies or rules governing wages or hours of individual providers. However, this provision also states that it does not modify various responsibilities of the DSHS, including the authority to establish a consumer's plan of care and determine the hours of care for which a consumer is eligible.

The first contract to be implemented under the individual provider collective bargaining law was effective until June 30, 2005. By law, negotiations for a new agreement must begin by May 1 of the year before the year in which an existing collective bargaining agreement expires. In April 2004, the union representing the individual providers and the Governor's Labor Relations Office began negotiating for a successor contract. By August, a PERC mediator determined that the parties were at impasse on several issues, which were certified to an arbitrator. One of these issues involved the "shared living" rule.

On August 31, 2004, the Office of Financial Man-

agement filed an unfair labor practice with the PERC, alleging that the union failed to bargain in good faith by insisting on submitting some issues, including the "shared living" rule issue, to arbitration. The PERC hearing examiner agreed that the union had committed an unfair labor practice, finding that the Legislature intended the DSHS to retain its core responsibility to administer the home care program and to set the hours of care and the plan of care for consumers receiving services. This decision was affirmed by the PERC on October 12, 2005.

Summary: At the request of the bargaining representative for individual providers, the Governor or designee must collectively bargain over how DSHS's core responsibility to manage long-term in-home care affects hours of work for individual providers. The Governor or designee must consult with the HCQA when bargaining these issues. The HCQA must work with consumer advocacy organizations to obtain informed input from consumers on their interests related to issues proposed to be bargained.

This bargaining requirement is not to be interpreted as requiring bargaining over an individual consumer's plan of care.

The language recognizing DSHS authority to establish consumer plans of care and determine their hours of care is modified to: (1) delete the reference to determining hours of care; and (2) add a reference to the agency's core responsibility to manage long-term in-home care, including determining the level of care that consumers are eligible to receive.

The reference to the HCQA adopting rules governing wages or hours of individual providers is deleted.

Votes on Final Passage:

House	97	1	
Senate	40	5	(Senate amended)
House			(House refused to concur)
Senate			(Senate receded)
Senate	42	3	(Senate amended)
House	95	3	(House concurred)

Effective: March 17, 2006

HB 2477
C 206 L 06

Making technical changes to election laws.

By Representatives Green, Nixon, Haigh, Hunt, Moeller and Rodne; by request of Secretary of State.

House Committee on State Government Operations & Accountability

Senate Committee on Government Operations & Elections

Background: Signature Verification Procedures. The Secretary of State is required to establish guidelines, in consultation with state and local law enforcement or certified document examiners, for election-related signature verification processes. The statute establishing this duty further provides that all election personnel assigned to verify signatures must receive training on these guidelines. These requirements are codified within the administrative provisions of the general election laws.

Filing Fee Petition. In general, a candidate for office must submit a filing fee with his or her declaration of candidacy. If a candidate lacks sufficient funds at the time of filing to pay the filing fee, the candidate must submit along with his or her declaration of candidacy a "nominating petition" containing the signatures of registered voters at least equal in number to that of the amount of the filing fee. The term "nominating petition" is also used in Washington's election laws to refer to the petition for nominating minor party or independent candidates at a minor party or independent candidate convention.

The Uniformed and Overseas Citizens Absentee Voting Act. The Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) applies to active members of the military and the merchant marines, their eligible families, and U.S. citizens residing outside of the U.S. The UOCAVA requires that all states allow such persons to vote by absentee ballot in general, special, primary, and runoff elections for federal offices when they are absent from their state of residency. This federal law does not apply to individuals who are not active military or their eligible dependents, but have moved from the person's state of residency to another state (also referred to as out-of-state voters). Washington's statute implementing the UOCAVA requirements provides assistance to all UOCAVA voters as well as out-of-state voters.

Changes in Election Laws. Significant changes have been made to Washington's primary election laws in recent years. Those significant changes include:

- In 2003, the Ninth Circuit Court of Appeals held that Washington's blanket primary system, in place since 1935, was unconstitutional because it violates political parties' right of free association.
- In 2004, the voters approved Initiative 872 (I-872, or "top two" primary election initiative).
- In 2004, the Legislature enacted primary election laws which provided for two alternative primary election systems in the event that I-872 was invalidated.
- In 2005, the United States District Court held I-872 to be unconstitutional because it violates the parties' right to free association.

As a result of these primary election law changes, several laws now appear twice in statute.

In other cases some narrowly crafted laws also fall within the broader language of other laws. For example, the narrower prohibition against interfering in any way with a voter within the disability access voting location

is included in the broader prohibition against interfering with a voter in any way within the polling place.

Voter Registration Database. The Secretary of State is required to maintain a statewide voter registration data base. The data base is designed to provide, among other things, up-to-date signatures of voters for the purpose of initiative signature checking. The new voter registration database has been in effect since January 1, 2006. Under a previously enacted statute, the Secretary of State is required to maintain voter signature cards for the purpose of checking initiative and referendum signatures. As a result, the Secretary of State is required to maintain voter signatures in two different formats: electronically, in the voter registration data base, and in hard copy, by way of signature cards.

Summary: Signature Verification Procedures. The language requiring the Secretary of State to establish guidelines for signature verification processes is removed from the general administrative election law provisions, and similar language is added to the Secretary of State's rule-making authority statute. The language added to the rule-making authority statute is modified from a general requirement that guidelines be established to a more specific requirement that rules be established for "standards for the verification of signatures on absentee, mail, and provisional ballot envelopes."

The language requiring that all election personnel assigned to verify signatures be trained on the guidelines is removed from the general provisions and is added to the section addressing the processing of incoming ballots in the chapter on absentee voting.

Filing Fee Petition. The name of the petition that must accompany a candidate's declaration of candidacy if he or she lacks the funds to pay the filing fee is changed from "nominating" petition to "filing fee" petition.

The Uniformed and Overseas Citizens Absentee Voting Act. The language including out-of-state voters in the statute implementing UOCAVA requirements is removed.

Repealed Statutes. The following election laws are repealed:

29A.04.157 (September primary)
29A.04.610 (Rules by Secretary of State)
29A.20.110 (Definitions — "Convention" and "election jurisdiction")
29A.20.130 (Convention — Notice)
29A.20.200 (Declarations of candidacy required, exceptions — Payment of fees)
29A.24.200 (Lapse of election when no filing for single positions — Effect)
29A.28.010 (Major party ticket)
29A.28.020 (Death or disqualification — Correcting ballots — Counting votes already cast)
29A.36.190 (Partisan candidates qualified for general election)
29A.44.220 (Casting vote)
29A.46.140 (Interference, assistance)
29A.46.150 (Prohibitions — Penalty)
29A.46.210 (Procedures for voting)
29A.46.220 (Opening and closing locations)
29A.46.230 (Voters in location at closing time)
29A.46.240 (Procedures after closing)
29A.46.250 (Handling of ballots after closing)
29A.72.220 (Petitions — Signature checking — Registration information file)

Votes on Final Passage:

House	96	0
Senate	48	0

Effective: June 7, 2006

ESHB 2479
C 207 L 06

Modifying provisions on voting equipment.

By House Committee on State Government Operations & Accountability (originally sponsored by Representatives Haigh, Nixon, Green, Hunt, Haler, Morrell and Upthegrove; by request of Secretary of State).

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

Background: Washington Voting System Certification Requirements. The Secretary of State (Secretary) is responsible for the inspection, evaluation, and testing of voting systems in the state. Voting systems, voting devices, and vote tallying systems must be certified and approved by the Secretary before they can be used or sold in the state. To be used in Washington, a voting device also must be tested, certified, and used in at least one other state or election jurisdiction and must meet the federal standards.

National Voting System Standards. The Help America Vote Act (HAVA) required the U.S. Election Assistance Commission (EAC) to issue Voluntary Voting System Guidelines that would update and augment the 2002 Voting System Standards (Standards) to reflect advances in voting technology, to incorporate requirements of the HAVA, and to address the proliferation of electronic voting systems. The proposed guidelines were released for comment in June 2005, and the final guidelines were adopted in December 2005. The HAVA also required the EAC to develop a national program for accrediting voting system testing laboratories and to oversee the certification of voting systems. This has been done in the past by the National Association of State Election Directors.

The Standards for vote accuracy require that all systems must:

- record the election contests, candidates, and issues exactly as defined by election officials;
- record the appropriate options for casting and recording votes;
- record each vote precisely as cast and be able to produce an accurate report of all votes cast;
- include control logic and data processing methods incorporating parity and check-sums (or equivalent error detection and correction methods) to demonstrate that the system has been designed for accuracy; and
- provide software that monitors the overall quality of data read-write and transfer quality status, checking the number and types of errors that occur in any of the relevant operations on data and how they were corrected.

In addition, Direct Recording Electronic voting systems must be able to record and retain redundant copies of the original ballot image.

Voting equipment vendors must submit hardware, firmware, and software to an Independent Test Authority (ITA) for evaluation against the Standards.

Signature Verification. Before absentee ballots are processed, the signature on the security envelope is checked against the voter's signature contained in the registration files. In 2005, the Legislature required the Secretary to establish guidelines, in consultation with state and local law enforcement or certified document examiners, for signature verification processes. All election personnel assigned to verify signatures must receive training on the guidelines.

Disability Access Voting. The HAVA requires that disability access voting must be offered using disability access voting devices that meet access requirements for persons with disabilities, including nonvisual accessibility, in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters.

County auditors are responsible for the designation of disability access voting locations in the county. At the discretion of the county auditor, the period for disability access voting may begin 20 days before an election and end one day before the election; however, he or she may set the end of the disability access voting period to satisfy requirements for printing and distributing poll books to the polls in order to prevent multiple voting. The county auditor is required to maintain a system to prevent multiple voting.

Summary: The requirement that a voting device be used in another state before it may be certified in Washington is removed. Instead, it is required that the device be tested and certified by an ITA designated by the EAC. The requirement that voting equipment allow the voter to vote for candidates of multiple political parties is removed.

Dates for disability access voting are changed from permissive to mandatory. The ending date for disability access voting is changed from one day before the election to the day of the election. County auditors are required to provide voting systems certified by the Secretary for disability access.

County auditors are required to establish an advisory committee that includes persons with disabilities and persons with expertise in providing accommodations for persons with disabilities. The committee is to assist election officials in developing a plan to improve the accessibility of elections for voters with disabilities.

County auditors may use automated signature verification systems to verify signatures on absentee ballot security envelopes, as long as the system has been approved by the Secretary. The Secretary is directed to adopt rules and standards for approval and implementation of hardware and software for these automated systems.

Votes on Final Passage:

House	96	0
Senate	46	0

Effective: June 7, 2006

SHB 2481
C 145 L 06

Insuring victims of crimes.

By House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Williams, Blake, Appleton, Moeller, Hasegawa, Chase, Rodne, Eickmeyer, Conway, Roberts, Hunt and Simpson).

House Committee on Financial Institutions & Insurance
Senate Committee on Financial Institutions, Housing & Consumer Protection

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

Summary: "Underwriting action" is defined to include when an insurer:

- cancels or non-renews an existing policy; or
- changes the terms or benefits of a policy.

The protections provided by the act apply to insurance policies owned by:

- health care facilities;
- health care providers; and

- religious organizations.

Insurers are prohibited from taking an underwriting action against the specified insureds as the result of a property insurance claim stemming from the crime of arson or malicious mischief. The prohibition applies to insurance claims made within five years of the underwriting action. An insurer may take an underwriting action due to other factors. The insured is required to file a report with a law enforcement agency that contains facts sufficient to put the insurer on notice that the loss was the result of arson or malicious mischief. The law enforcement agency, in turn, must make a determination that an insured is the victim of a crime in order for the insured to be subject to the protections afforded by the act. The insured must cooperate with any investigation by law enforcement authorities and insurance investigators.

An insurer that takes an underwriting action against an insured who has filed a claim related to arson or malicious mischief during the preceding five-year period must report the action to the OIC.

Votes on Final Passage:

House	71	27	
Senate	45	3	(Senate amended)
House			(House refused to concur)
Senate			(Senate receded)
Senate	45	4	

Effective: June 7, 2006

SHB 2497
C 253 L 06

Providing assistance for business owners who are active duty national guard members.

By House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Kilmer, Buri, Hudgins, Skinner, Green, Morrell, Linville, Ormsby, Lantz, Williams, McCoy, Appleton, Moeller, Chase, Conway, P. Sullivan, Haler, Wallace, Sells, Morris, Ericks, Upthegrove and Woods).

House Committee on Financial Institutions & Insurance
Senate Committee on Financial Institutions, Housing & Consumer Protection

Background: The Department of Financial Institutions regulates financial institutions chartered in Washington. These institutions include banks, credit unions, mutual savings banks, and savings and loan associations. Federally chartered financial institutions are regulated by one of several different federal agencies.

The federal Servicemembers Civil Relief Act of 2003 (SCRA) provides financial protections for servicemembers. "Servicemember" includes:

1) a member of the United States military called to active duty; and
2) a member of the National Guard under a call of active service:
   - authorized by the President of the United States or the Secretary of Defense for a period of more than 30 consecutive days; or
   - responding to a national emergency declared by the President and supported by federal funds.

The SCRA covers issues including rental agreements, security deposits, prepaid rent, eviction, installment contracts, credit card interest rates, mortgage interest rates, mortgage foreclosure, civil judicial proceedings, and income tax payments.

If the ability of a servicemember to repay a loan is materially affected by his or her service, then the loan incurred by a servicemember or by a servicemember and his or her spouse may not accrue interest at over 6 percent during the time of military service. There is a presumption that the service does materially affect the ability to repay the loan that may be rebutted by the lender. The SCRA only applies to loans made prior to the time of active service.

Summary: If a service member is called to military service, the interest rate on a business loan must be conformed to the interest rate in the federal Servicemembers Civil Relief Act (this interest rate is 6 percent). This applies to business loans to entities where a service member is either the sole proprietor or owns at least 50 percent of the entity. To qualify, the loans must have an outstanding balance of less than $100,000 at the time the service member is called to military service. The business must experience a material reduction in revenue due to the service member's military service. The service member must notify the lender five days prior to military service. These provisions apply only to business loans executed on or after January 1, 2007.

Votes on Final Passage:

House	98	0
Senate	47	0

Effective: June 7, 2006

2SHB 2498
C 105 L 06

Establishing an industry cluster-based approach to economic development.

By House Committee on Appropriations (originally sponsored by Representatives Kilmer, Buri, Morrell, Skinner, Green, Linville, McCoy, Moeller, Chase, Rodne, Conway, Haler, Morris, Ericks and Sells).

House Committee on Economic Development, Agriculture & Trade
House Committee on Appropriations
Senate Committee on International Trade & Economic Development

Senate Committee on Ways & Means

Background: An industry cluster is a geographic grouping of interdependent, competitive companies, and their suppliers and supporting institutions. Clusters represent regional specialization and comparative advantage. There is a growing interest in looking at particular industry clusters in Washington to better focus the public support of economic development. This includes looking at the state's natural industry clusters to be more responsive in creating an educated and skilled workforce to support these clusters and in providing the necessary public infrastructure to promote expansion.

Summary: The Department of Community, Trade and Economic Development (DCTED) must work with industry associations and organizations to identify regional and statewide industry clusters. This includes conducting focus groups, supporting industry cluster associations, and providing methods of economic communication and information among the firms within an industry cluster. The regional and statewide industry clusters may include aerospace, agriculture, food processing, forest products, business services, financial services, health and biomedical, software, digital and interactive media, transportation and distribution, and microelectronics.

In addition to the groups the DCTED works with currently, the DCTED is directed to work with industry and cluster associations as well as federal and state industries in developing industry cluster-based economic development strategies. In developing industry-cluster based strategies, the DCTED must continue to use information gathered in each service delivery region. The DCTED may conduct focus group discussions and studies, support the formation of industry cluster associations, and provide methods for communication among firms within the industry clusters. The DCTED must also work with industry clusters, private organizations, local governments, local economic development organizations, and higher education and training institutions to develop strategies to strengthen Washington's industry clusters. On a continual basis the DCTED must evaluate the potential returns to the state from devoting additional state resources to an industry cluster-based approach to economic development.

A competitive grant program is created to assist communities to develop, in partnerships, regional economic development and industry cluster strategies and to conduct related cluster market strategies. In administering the grant program, the DCTED must work with an industry cluster advisory committee. This advisory committee must have equal representation from the Workforce Training and Education Coordinating Board, the State Board for Community and Technical Colleges, the Employment Security Department, business, and labor. The industry cluster advisory committee must recommend criteria for evaluating applications for grant funds and recommend applicants for the grant awards. Grant applicants must include organizations from at least two counties and may include local government, economic development councils, federally recognized Indian tribes, workforce development councils, and educational institutions. Applicants should also include participants from the local business community. Financial participation of the partner organizations is required.

A grant award may be up to $100,000 per applicant, except for King, Pierce, Snohomish, and Kitsap counties, who may not receive more than $100,000 combined. The grant may be used to fund organizational activities necessary to develop the partnership's regional economic development and industry cluster strategies. It may also be used for related marketing strategies. Only 10 percent of the money appropriated for the competitive grant program may be used by the DCTED for administrative costs. The grant program expires June 30, 2007.

Votes on Final Passage:

House	96	2	
Senate	41	6	(Senate amended)
House	95	2	(House concurred)

Effective: June 7, 2006

SHB 2500
C 104 L 06

Requiring health carriers to report certain information.

By House Committee on Health Care (originally sponsored by Representatives Green, Morrell, Cody, Schual-Berke, Clibborn and Conway; by request of Insurance Commissioner).

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

Background: Health carriers are required to submit an annual report to the Office of the Insurance Commissioner (OIC). The information contained in the annual report is not easily retrievable or accessible by consumers.

Summary: Health carriers are required to submit information to the OIC each year in a format that will be easier for the public to understand and access. The information includes total number of members, total amount of revenue, total amount of hospital and medical payments, medical loss ratio, average amount of premiums per member per month, and the percent change in the average premium per member per month from the previous year. Additional required information includes total amount of claim adjustment expenses, total amount of general administrative expenses, total amount of the reserves maintained for unpaid claims, total net underwriting gain or loss, carrier's net income after taxes, dividends to stockholders, net change in capital and surplus from the prior year, and total amount of the capital and

surplus. The OIC will make the information available to the public through the Internet. The Insurance Commissioner must work with disability carriers to use, as much as possible, information from the annual statement forms already filed.

Votes on Final Passage:

House	98	0	
Senate	46	1	(Senate amended)
House	96	1	(House concurred)

Effective: June 7, 2006

HB 2501
C 47 L 06

Regulating group health benefit plan coverage of mental health services.

By Representatives Schual-Berke, Cody and Morrell; by request of Insurance Commissioner.

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

Background: All benefit plans offered by health carriers for groups of 50 or more employees must phase in mental health parity in 2006, 2008, and 2010.

Summary: All group benefit plans offered by health carriers for groups other than small groups defined by statute must phase in mental health parity in 2006, 2008, and 2010. Groups of 50 or more employees that meet the statutory definition of a small group are not required to phase in the mental health parity requirement.

Votes on Final Passage:

House	98	0
Senate	46	0

Effective: March 15, 2006

ESHB 2507
C 234 L 06

Prohibiting false or misleading college degrees.

By House Committee on Higher Education & Workforce Education (originally sponsored by Representatives Kenney, Shabro, Hasegawa, Morrell, Rodne, Lantz and Ormsby).

House Committee on Higher Education & Workforce Education
Senate Committee on Early Learning, K-12 & Higher Education

Background: Washington law prohibits a private degree-granting institution from "operating" in Washington unless it has been approved by the Higher Education Coordinating Board (HECB). The definition of "operate" is broad. An institution of higher education "operates" in Washington if it does any of the following things:

- offers courses to Washington residents (including offering courses electronically);
- grants or offers to grant a degree to a Washington resident (including advertising or publicizing that the institution offers the degree); or
- maintains or advertises that the institution has a Washington location, mailing address, or phone number.

If an institution operates in Washington without approval of the HECB, the entity and its owners, officers, and employees are guilty of a gross misdemeanor. They may be punished by up to a $1,000 fine and/or up to one year in jail.

Washington law also directs the HECB to develop and publish information to the public regarding entities that sell or award fraudulent degrees.

In 2005 Washington enacted a law that prohibits certificated educational staff in the K-12 system from using credits earned from an unaccredited institution to move up the salary schedule. A certificated staff who submits a degree from an unaccredited institution for the purpose of receiving a pay increase may be: (1) fined $300 by the Office of the Superintendent of Public Instruction; and (2) required to pay back any increased compensation received due to the degree.

Summary: A degree-granting institution operating in Washington must: (1) be accredited by an accrediting agency recognized by the United States Department of Education; (2) have an application for accreditation pending; or (3) have been granted a waiver or exemption by the HECB from the accreditation requirement.

Offering or granting a "false academic credential" is prohibited. A false academic credential is a document that evidences or demonstrates that a person completed a course of instruction or program beyond the secondary level that was not issued by an institution: (1) accredited by a nationally recognized accrediting agency; (2) that has an accreditation application pending; or (3) that has been granted a waiver or exemption by the HECB. A person who offers or grants false academic credentials is guilty of a class C felony and also violates Washington's Consumer Protection Act.

A person is prohibited from knowingly using a false academic credential to: (1) advertise or promote a business; (2) obtain employment, a license or certificate, a promotion, compensation or other employment benefit, or admission to an education program in this state; or (3) a position in government with authority over another person. A person who knowingly uses a false academic credential in violation of these provisions is guilty of a gross misdemeanor.

The terms "grant," "offer," and "operate" are defined. "Grant" means award, bestow, confer, convey, sell or give. "Offer" means, in addition to its usual meanings,

advertise, publicize, or solicit. To "operate" means to offer, for degree credit, courses (including via correspondence or electronically) to any Washington location, to grant or offer to grant degrees in Washington, or to maintain or advertise a Washington location, address, computer server, or telephone number (except for the purpose of communicating with alumni).

Votes on Final Passage:

House	98	0	
Senate	49	0	(Senate amended)
House			(House refused to concur)
Senate			(Senate receded)
Senate	46	0	(Senate amended)
House	98	0	(House concurred)

Effective: June 7, 2006

HB 2520
C 209 L 06

Recodifying and making technical corrections to public disclosure law.

By Representative Nixon.

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

Background: During the 2005 legislative session, a bill was enacted to recodify, amend, and reorganize the public records disclosure statutes as a new chapter in state law, to be cited as the Public Records Act (Act). Exemptions from public disclosure were reorganized into separate sections in the Act. The Act takes effect July 1, 2006.

Summary: Public records disclosure exemptions enacted in 2005 are recodified into the new Public Records Act.

Votes on Final Passage:

House	95	0
Senate	42	0

Effective: July 1, 2006

SHB 2537
C 254 L 06

Establishing a pilot program to allow employers to assist employees in completing applications for industrial insurance benefits.

By House Committee on Commerce & Labor (originally sponsored by Representatives Conway, Condotta, McCoy, Hudgins and B. Sullivan; by request of Department of Labor & Industries).

House Committee on Commerce & Labor
Senate Committee on Labor, Commerce, Research & Development

Background: Industrial insurance is a no-fault state workers' compensation program that provides medical and partial wage replacement benefits to covered workers who are injured on the job or who develop an occupational disease. Employers who are not self-insured must insure with the state fund operated by the Department of Labor and Industries (Department).

When an accident occurs to a worker, the worker has a duty under the Industrial Insurance Act to report the accident "forthwith" to the employer or supervisor in charge of the work. The employer, in turn, has a duty to report the accident and resulting injury "at once" to the Department if the worker has received medical treatment, has been hospitalized or disabled from work, or has died as the apparent result of the injury.

Workers must also file a claim application with the Department or self-insured employer, together with a certificate of the attending health services provider. The attending provider must inform the worker of his or her rights under the Industrial Insurance Act and assist the worker in filing the claim application.

Since 2005 the Department has been required in statute to develop an initiative to encourage workers to report industrial insurance injuries to the employer and the employer, in turn, to report the injuries to the Department. As part of the initiative, the Department must take steps to educate workers and employers about the benefits of prompt reporting.

In addition, by December 1, 2006, the Department must:

- develop and make statutory recommendations for an alternative system of reporting injuries under which the worker would report to the employer and the employer would report to the Department. Upon passage of such legislation, the Department must immediately begin an educational effort to promote this method of reporting; and
- report to the Legislature on a study of: (1) the claims that are not reported promptly, (2) the effect of the educational initiative on whether the number of claims reported to employers increased, whether there was a reduction in delays in benefit payments, and whether there was an improvement in employer involvement in assisting with claims management and an increase in appropriate return-to-work for injured workers, and (3) the efforts of the Centers of Occupational Health and Education in early reporting and early notification of employers.

Summary: The scope of the Department's initiative is amended to include encouraging the employer to provide assistance to the worker in completing the application for compensation.

By January 1, 2007, the Department must implement

a pilot program in which employers assist workers in filing workers' compensation claims. The pilot program does not replace the current method of reporting. The pilot program expires on July 1, 2009.

The pilot program must consist of employers who voluntarily participate and represent a cross-section of industries, geographic areas, union and nonunion workers, large and small businesses, and other criteria established by the Department with input from business and labor leaders. The Department must develop requirements or rules for employers who participate in the pilot program, including provisions to ensure prompt reporting of the claim and communicating a worker's rights and responsibilities under the pilot program.

During the first year of the pilot, the number of participating employers is limited to 500. This number may be increased to 750 during the second year of the pilot. During the pilot program, the Department must consider steps to address the unique needs and issues of small employers.

The requirement for the Department to develop and make statutory recommendations by December 1, 2006, is eliminated and the due date for the Department's report to the Legislature is extended to December 1, 2007, and December 1, 2008. The report must include results from the pilot program and whether additional statutory changes are needed.

Votes on Final Passage:

House 97 1
Senate 45 2

Effective: June 7, 2006

SHB 2538
C 31 L 06

Authorizing the department to request and superior court to grant warrants pursuant to chapter 49.17 RCW.

By House Committee on Commerce & Labor (originally sponsored by Representatives Conway, Hudgins and McCoy; by request of Department of Labor & Industries).

House Committee on Commerce & Labor
Senate Committee on Labor, Commerce, Research & Development

Background: Under the federal Occupational Safety and Health Act (OSHA), Washington is authorized to assume responsibility for occupational safety and health (the "state plan state" concept). The Washington Industrial Safety and Health Act (WISHA) applies to most workplaces in Washington. The WISHA is administered and enforced by the Department of Labor and Industries (Department), which adopts rules governing safety and health standards for covered workplaces. The state's industrial safety and health standards must be at least as effective as those adopted under the OSHA for the state to maintain its status as a state plan state.

To ensure compliance with WISHA, Department representatives inspect workplaces and cite employers for violations. Upon presenting appropriate credentials to the owner, manager, operator or agent in charge of a worksite, Department representatives have the authority to enter a worksite at all reasonable times and conduct an inspection.

Summary: The Legislature intends that inspections ensure safe and healthful working conditions for every person working in Washington and that inspections follow the mandates of the federal and state constitutions and the OSHA.

A Department representative must obtain consent from the owner, manager, operator, or on-site person in charge of a worksite when entering a worksite located on private property. Entry must be at an entry point designated by the employer or, if there is no designated entry point, at a reasonably recognizable entry point. In both cases the entry must be done in a safe manner and must be solely for the purpose of requesting consent. Advance notice of the inspection is not required.

A Department representative is not prevented from taking action consistent with a recognized exception to the warrant requirements of federal and state law.

The Director of the Department may apply to a court of competent jurisdiction for a search warrant authorizing access. The court is authorized to issue a search warrant.

Votes on Final Passage:

House 98 0
Senate 49 0

Effective: June 7, 2006

SHB 2543
C 210 L 06

Concerning the enhanced 911 advisory committee.

By House Committee on Technology, Energy & Communications (originally sponsored by Representatives Kilmer, Crouse, Nixon, Hudgins, Morrell, Green and Lantz; by request of Military Department).

House Committee on Technology, Energy & Communications
Senate Committee on Government Operations & Elections

Background: Enhanced 911 (E-911) automatically displays the caller's name, phone number, and location to a 911 operator. An E-911 system was established in Washington by referendum in 1991.

The E-911 coordinator is responsible for the implementation and operation of the E-911 system in the state. The coordinator is assisted by the E-911 Advisory Com-

mittee, appointed by the Adjutant General of the state Military Department, which is composed of fire, safety, utility, telecommunication, and local government officials. The purpose of the E-911 Advisory Committee is to assist and coordinate the counties' operation and continued advancement of E-911 systems that provide expedient, reliable public access to emergency services statewide. There are 27 members on the Advisory Committee.

The E-911 Advisory Committee is set to expire on December 31, 2006.

Summary: The expiration date for the E-911 Advisory Committee is extended to December 31, 2011.

A representative from a voice-over-internet protocol company is added to the membership of the E-911 Advisory Committee. The Committee must annually provide an update on the status of E-911 service in the state to the appropriate committees of the Legislature.

Votes on Final Passage:

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

Effective: June 7, 2006

HB 2544
C 273 L 06

Authorizing project loans recommended by the public works board.

By Representatives P. Sullivan, Jarrett, Green, Dunshee, Upthegrove, McCoy, Ericks, Simpson, Schual-Berke, Lantz, Ormsby, Springer, Kilmer and Kagi; by request of Department of Community, Trade, and Economic Development.

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 (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 state capital budget, but the project list is submitted annually in separate legislation. The CTED received an appropriation of $288.9 million from the Public Works Assistance Account in the 2005-07 Capital Budget. The funding is available for public works project loans in the 2006 and 2007 loan cycles.

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

The Board adopted two project lists for the 2006 loan cycle. The first list was adopted on August 16, 2005. Due to increased revenue projections released in September of 2005, the Board adopted a second list of projects on December 6, 2005.

Summary: As recommended by the Board, 51 public works project loans totaling $181.7 million are authorized for the 2006 loan cycle. The 51 authorized projects fall into the following categories: (1) 11 domestic water projects totaling $33.2 million; (2) 31 sanitary sewer projects totaling $128.8 million; (3) three storm sewer projects totaling $10.1 million; and (4) six road projects totaling $9.6 million. The Board may reimburse for expenses incurred prior to the execution of a loan agreement if the project meets the following requirements: (1) the project replaces a water line over a creek; and (2) the project need and timeline are being determined by a state agency and the city within its boundaries.

Votes on Final Passage:

House	96	0	
Senate	45	0	(Senate amended)
House	97	0	(House concurred)

Effective: March 28, 2006

SHB 2553
C 274 L 06

Regulating service contracts and protection product guarantees.

By House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Kirby and Morrell; by request of Insurance Commissioner).

House Committee on Financial Institutions & Insurance
Senate Committee on Financial Institutions, Housing & Consumer Protection

Background: Insurance and insurance transactions are governed by the Insurance Code (Code). Among other things, this Code requires: (1) that insurers meet certain financial requirements; and (2) that agents, solicitors, and brokers of insurance comply with specified licensing

standards. Financial and criminal penalties may result from noncompliance.

Certain transactions that fall within the definition of insurance have been addressed by exemptions from the Code or the creation of a specific regulatory structure. Entities regulated under these chapters may not be required to comply with the same capitalization and reserve requirements, reporting and solvency oversight, and claims handling practices as are required of an insurer selling a traditional insurance product.

In 1990, the Legislature created a chapter in the Code to regulate motor vehicle service contracts. A motor vehicle service provider is required to have a reimbursement insurance policy that covers all obligations and liabilities incurred by the motor vehicle service contracts issued by the provider.

In 1999, a chapter in the Code was created for the regulation of service contracts. A service contract provider may choose one of the following options to ensure that all obligations and liabilities are paid:

- insure its service contracts with a reimbursement insurance policy;
- maintain a reserve account that includes a portion of the gross consideration received for all service contracts and give the Insurance Commissioner (Commissioner) a financial security deposit; or
- maintain or have the parent company maintain a net worth or stockholder's equity of $100 million.

Summary: The chapter in the Code regulating service contracts, is expanded to include motor vehicle service contracts. Numerous definitions are created including a definition of a protection product. "Protection product" means any product offered or sold with a guarantee to replace, repair, or pay incidental costs if it fails to perform as stated in a written contract. "Protection product guarantee" is the written contract to repair, replace, or pay the incidental costs. "Protection product guarantee provider" is the person or entity that is contractually obligated to the purchaser of a "protection product."

Registration. Service contract providers and protection product guarantee providers must register with the Commissioner. Application procedures, requirements, and fees are set forth. The Commissioner may suspend or revoke the registration of a service contract provider or a protection product guarantee provider for failure to comply with the specific requirements.

Financial Responsibility for Service Contact Providers. In addition to the current financial responsibility options, a service contract provider may use a risk retention group (RRG) to insure the contracts of a service contract with a reimbursement insurer policy. A RRG must be in full compliance with applicable state and federal laws and meet specific financial requirements. The reimbursement policy must be filed with and approved by the Commissioner.

Financial Responsibility for Protection Product Guarantee Providers. Protection product guarantee providers must insure all protection products under a reimbursement insurer policy issued by an authorized insurer or RRG. An RRG must be in full compliance with applicable state and federal laws and meet specific financial requirements. The reimbursement policy must be filed with and approved by the Commissioner.

Financial Responsibility for Motor Vehicle Service Contract Providers. Motor vehicle service contract providers must insure all motor vehicle service contracts under a reimbursement insurer policy issued by an authorized insurer or RRG. An RRG must be in full compliance with applicable state and federal laws and meet specific financial requirements.

Record-keeping. A service contract provider or protection product guarantee provider must keep accurate accounts and records including:

- the name and address of the person who purchased a protection product;
- a list of locations where the service contract or protection product is sold or marketed; and
- written claims files with the dates, amounts, and descriptions of claims related to service contracts or protection products.

Investigations. The Commissioner may investigate a service contract provider and a protection product guarantee provider. Upon the Commissioner's request, the service contract provider or protection product guarantee provider must make the books, accounts, and records available to the Commissioner. The Commissioner may take actions to enforce the chapter and the Commissioner's rules and orders.

Motor Vehicle Service Contract Form Filings - Generally. Motor vehicle service contracts must not be sold or issued unless the form is filed with and approved by the Commissioner. This does not apply to contracts issued or sold by a motor vehicle manufacturer, an import distributor, a wholly owned subsidiary of a manufacturer, or a wholly owned subsidiary of an import distributor.

Provisions Unique to Motor Vehicle Manufacturers, Import Distributors, and Subsidiaries of Manufacturers and Import Distributors. A motor vehicle service contract does not have to be filed until 60 days after it is used if it is issued or sold by a motor vehicle manufacturer, an import distributor, a wholly owned subsidiary of a manufacturer, or a wholly owned subsidiary of an import distributor.

The service of process provision and many of the registration requirements do not apply to a motor vehicle manufacturer, an import distributor, a wholly owned subsidiary of a manufacturer, and a wholly owned subsidiary of an import distributor.

Audited financial statements are not required from publicly traded motor vehicle manufacturers or publicly traded import distributors.

Motor Vehicle Service Contracts - Disclosures and Consumer Protections. All motor vehicle service contracts must include specific disclosures. All motor vehicle service contracts must include information on how to file a claim. Purchasers must be allowed to return the contract within 30 days if no claim is filed and receive a full refund less a designated cancellation fee.

Consumer Protection Act. A violation of these provisions is a violation of the Consumer Protection Act. A purchaser of a service contract or guarantee protection product may bring suit for a violation.

Exemption from the Insurance Code. Persons selling and marketing service contracts and protection product guarantees are not required to register with the Commissioner unless they are service contract providers or protection product guarantee providers.

Repeals. The chapter in the Code regulating motor vehicle service contracts is repealed.

Votes on Final Passage:

House	97	1	
Senate	48	0	(Senate amended)
House	98	0	(House concurred)

Effective: October 1, 2006

HB 2562
C 225 L 06

Regulating flavored malt beverage.

By Representatives Wood, Conway, Fromhold and Condotta; by request of Liquor Control Board.

House Committee on Commerce & Labor
Senate Committee on Labor, Commerce, Research & Development

Background: Many flavored malt beverages (FMBs) contain added flavoring derived from distilled spirits. According to the Liquor Control Board, FMBs have been on the market since 1996. According to beverage industry reports from 2001 to 2003, FMBs account for 2.5 percent to 2.7 percent of the national beer market.

Federal Standards. The former Alcohol, Tobacco and Firearms Bureau (ATFB), now the Alcohol and Tobacco Tax and Trade Bureau (TTB), is the federal agency that regulates alcohol manufacturers. Beer and spirits are subject to different taxes, and breweries are limited as to the types of products they may produce; specifically, breweries may generally produce only beer and malt beverage products.

In 1996 the ATFB issued a ruling that acknowledged that some FMBs contain significant amounts of distilled spirits and stated that these and similar beverages could continue to be produced and marketed as beer products. At the time, the agency stated that it would pursue additional regulation of FMBs in the future.

In January 2005 the TTB adopted a federal standard that limits the percentage of flavorings containing alcohol that a malt beverage may contain in order for the beverage to be considered a malt beverage, as opposed to a spirit. According to the TTB, this standard was adopted in part at the request of state authorities concerned about varying state standards.

The new TTB standard requires that FMBs fall into one of the following two categories in order to continue to be taxed and treated as a beer or brewed beverage product:

- malt beverages that contain no more than 6 percent alcohol by volume; these beverages may derive no more than 49 percent of their alcohol content from flavorings and other non-beverage ingredients; or
- malt beverages that contain more than 6 percent alcohol by volume: not more than 1.5 percent of the volume of the finished product may consist of alcohol derived from flavors and other non-beverage ingredients containing alcohol.

States are not required to follow the TTB standard and may take a different view concerning the classification and taxation of FMBs under state law.

State Law. "Spirits" are defined as any beverage which contains alcohol obtained by distillation. Under this definition, some FMBs are "spirits," not beer.

State law regulates and taxes beer and spirits differently:

Beer.

- Beer may be sold for off-premises consumption at grocery stores, convenience stores, and beer and wine specialty shops.
- Beer brewers and wholesalers are subject to an excise tax, which currently equals $8.08 per 31 gallon barrel, with a lower rate imposed on sales of less than 60,000 barrels. Beer is also subject to local sales tax.
- In fiscal year 2005, the state revenue from the beer excise tax was $29,085,900.

Spirits.

- Spirits may be sold for off-premises consumption only through liquor stores.
- All spirits sold are subject to a $2.44 per liter tax plus a sales tax of 20.5 percent for sales to consumers or 13.7 percent for sales to restaurant licensees.
- In fiscal year 2005, the state revenue from the liquor liter tax was $77,124,000. Revenue from the state liquor sales tax was $74,102,000.

Summary: State law is amended to incorporate definitions for FMBs similar to the standard adopted by the Alcohol and Tobacco Tax and Trade Bureau for FMBs.

The definition of "beer" includes a "flavored malt beverage" which meets one of the following criteria:

- contains no more than 6 percent alcohol by volume and derives no more than 49 percent of its alcohol content from distilled spirits contained in flavorings and other non-beverage materials; or

- contains more than 6 percent alcohol by volume and derives no more than 1.5 percent of the beverage's overall alcohol content from distilled spirits contained in flavorings and other non-beverage materials.

The definition of "spirits" expressly excludes FMBs.

Votes on Final Passage:

House 96 1
Senate 46 0

Effective: June 7, 2006

HB 2567
C 188 L 06

Providing provisions for methamphetamine precursors.

By Representatives Wallace, Ericks, Morrell, Kilmer, Lovick, Campbell, Green, Lantz, Springer and Moeller.

House Committee on Criminal Justice & Corrections
Senate Committee on Judiciary

Background: Precursor drugs are substances that can be used to manufacture controlled substances. For example, anhydrous ammonia, ephedrine, pseudoephedrine, and phenylpropanolamine are common precursor items that are often used to illegally manufacture methamphetamine. Methamphetamine is a highly addictive substance that affects the central nervous system.

In 2001, legislation was enacted that placed restrictions on the sale and distribution of ephedrine, pseudoephedrine, or phenylpropanolamine. The legislation instituted a number of measures including: providing reporting and record keeping requirements for the sale of these precursor substances; restricting the retail sale of the precursor substances; and limiting the quantity that a person may possess.

Iodine is another precursor drug that can be used to manufacture methamphetamine. Iodine is used legally for a variety of commercial and medical purposes. It is widely available and can be used legitimately as a:

- derivative used to make chemicals and polymers, sanitation and cleaning compounds, pharmaceuticals, nylon fibers, dyes and ink, and photographic film;
- developer to help crime scene investigators discover latent fingerprints on paper surfaces;
- nutritional supplement in table salt;
- common ingredient in dietary supplements for livestock;
- element in the production of an electric light bulb;
- water purification and swimming pool sanitization chemical; and
- topical antiseptic for humans, horses, and cattle after the crystals are made into iodine tincture.

Iodine crystals may be purchased from a variety of businesses. Crystals typically are available for sale at chemical supply stores, feed and tack stores, and veterinary clinics and suppliers. Iodine also is widely available on the Internet.

Iodine is also frequently used illegally to produce high quality methamphetamine. Methamphetamine producers use iodine crystals to produce hydriodic acid, the preferred reagent in the ephedrine and pseudoephedrine reduction method of methamphetamine production.

Methylsulfonylmethane (also known as MSM) is commonly used as a nutritional supplement for horses and humans. Methamphetamine produced in Mexico and southwestern states is commonly cut with MSM — a white powder with a low melting point. It is highly soluble and readily mixes with most substances without leaving a residue, making it a suitable cutting agent for methamphetamine.

A gross misdemeanor offense is punishable by imprisonment of not more than one year in jail, or by a fine of not more than $5,000, or both. A misdemeanor offense is punishable by imprisonment in the county jail for a maximum term of not more than 90 days, or by a fine of not more than $1,000, or both.

Summary: It is a gross misdemeanor offense to knowingly purchase in a 30-day period or possess any quantity of iodine in its elemental form, an iodine matrix, or more than two pounds of methylsulfonylmethane (MSM).

The penalties do not apply to the following individuals:

- a person who possesses iodine in its elemental form or an iodine matrix as a prescription drug, under a prescription issued by a licensed veterinarian, physician, or advanced registered nurse practitioner;
- a person who possesses iodine in its elemental form, an iodine matrix, or any quantity of MSM in its powder form and is actively engaged in the practice of animal husbandry of livestock;
- a person who possesses iodine in its elemental form or an iodine matrix in conjunction with experiments conducted in a chemistry-related laboratory maintained by a school, manufacturing facility, government agency, or research facility in the course of lawful business activities;
- a veterinarian, physician, advanced registered nurse practitioner, pharmacist, retail distributor, wholesaler, manufacturer, warehouseman, or common carrier, or an agent of any of these persons in the regular course of lawful business activities; or
- anyone working in a general hospital in the regular course of employment at the hospital.

The Washington State Patrol must develop a form to be used in recording transactions involving iodine in its elemental form, an iodine matrix, or MSM. A person who purchases any quantity of iodine in its elemental form, an iodine matrix, or any quantity of MSM must present an identification card or driver's license before purchasing the item. A person who sells or otherwise

transfers any quantity of iodine or MSM to an authorized person must record each sale or transfer. The record must be retained by the person for at least three years. Any law enforcement agency may request access to the records. Failure to make or retain a required record is a misdemeanor offense. Failure to comply with a request for access to records is a misdemeanor offense.

"Iodine matrix" is defined as iodine at a concentration greater than 2 percent by weight in a matrix or solution. "Matrix" means something, as a substance, in which something else originates, develops, or is contained. "Methylsulfonylmethane" or MSM means MSM in its powder form only, and does not include products containing MSM in other forms such as liquids, tablets, capsules not containing MSM in pure powder form, ointments, creams, cosmetics, foods, and beverages.

Votes on Final Passage:

House	92	3	
Senate	46	0	(Senate amended)
House	96	1	(House concurred)

Effective: June 7, 2006

SHB 2569
C 275 L 06

Lowering the interest rate for the property tax deferral program.

By House Committee on Finance (originally sponsored by Representatives Morrell, Roach, Campbell, Williams, Kilmer, Clibborn, Conway, Blake, Eickmeyer, Flannigan, Wallace, Roberts, Upthegrove, McCoy, McDonald, Green, Dickerson, Lantz and Springer).

House Committee on Finance
Senate Committee on Ways & Means

Background: Some senior citizens and persons retired due to disability are entitled to property tax relief on their principal residences. To qualify, a person must be 61 in the year of application or retired from employment because of a physical disability, own his or her principal residence, and have a disposable income of less than $35,000 a year. Persons meeting these criteria are entitled to partial property tax exemptions and a valuation freeze. Eligible persons of age 60 with incomes less than $40,000 may defer taxes.

Taxes that are deferred become a lien against the property and accrue interest at 8 percent per year. If deferred taxes are not repaid within three years after the claimant ceases to own and live in the residence, the lien will be foreclosed and the residence sold to recover the taxes.

Summary: The interest rate on deferred property taxes is reduced to 5 percent. The Department of Revenue is required to study and report on the adequacy and appropriateness of the interest rate in accomplishing the intent of the property tax deferral program.

Votes on Final Passage:

House	95	1
Senate	49	0

Effective: June 7, 2006

E2SHB 2572
C 255 L 06

Establishing the small employer health insurance partnership program.

By House Committee on Appropriations (originally sponsored by Representatives Morrell, Clibborn, Green, Flannigan, Eickmeyer, Conway, Dickerson, Blake, Cody, Wallace, Roberts, Appleton, Hasegawa, McCoy, Linville, Simpson, Chase, Darneille, O'Brien, Murray, B. Sullivan, Ormsby, Springer, Moeller and Kagi).

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

Background: Recent rapid increases in the cost of health care have made it difficult for small employers to afford to provide coverage for their employees' health care coverage. The percentage of small employers providing health care coverage for their employees has declined over the past several years. The Health Care Authority provides subsidized health coverage for low-income individuals who meet income eligibility standards through the Basic Health Plan.

Summary: A Small Employer Health Insurance Partnership Program is established in the Health Care Authority. It will provide premium subsidies to eligible employees who are employed by an employer who offers health coverage that has an actuarial value equivalent to that of the Basic Health Plan benefit, and the small employer agrees to pay at least 40 percent of the monthly premium cost for their employees.

The Department of Social and Health Services is directed to submit a request to the federal Department of Health and Human Services for a state Children's Health Insurance Program section 1115 demonstration waiver to seek authorization to draw down Washington's unspent state Children's Health Insurance Program allotment to finance Basic Health Plan coverage for parents of children enrolled in Medicaid or the state Children's Health Insurance Program. Authority is also sought to use the state savings to finance an expansion of the Basic Health Plan or subsidies under the Small Employer Health Insurance Partnership Program.

Votes on Final Passage:

House	57	41	
Senate	42	5	(Senate amended)
House			(House refused to concur)
Senate			(Senate receded)
Senate	25	23	

Effective: June 7, 2006

SHB 2573
C 103 L 06

Adopting health information technology to improve quality of care.

By House Committee on Health Care (originally sponsored by Representatives Morrell, Wallace, Clibborn, Cody, Flannigan, Simpson, Green, Ormsby, Springer, Kilmer, Moeller, Kagi and Conway; by request of Governor Gregoire).

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

Background: The State Health Care Authority (Authority) is the agency that administers state employee insurance benefits and the Basic Health Plan, which is the state subsidized health insurance program for low income persons. The Authority is also generally responsible for coordinating the study and implementation of state initiatives regarding health care cost containment. This includes using evidence-based medicine in its contracts in order to develop performance measures and financial incentives related to chronic disease and health information technology.

In 2005, the Authority established the Washington Health Information Infrastructure Advisory Board (Board). The Authority must collaborate with the Board to develop a strategy for the adoption and use of electronic medical records and health information technologies. The Authority and the Board have issued their preliminary report and the final report is due December 1, 2006.

Summary: When contracting for state-purchased health care and considering options for cost containment and delivery alternatives in state-purchased health care programs, the Authority must promote and increase the adoption of health information technology systems by hospitals, integrated delivery systems, and providers. The Authority may achieve this through reimbursement and state health purchasing strategies as well as pilot studies. The health information technology systems must:

- facilitate diagnosis or treatment;
- reduce unnecessary duplication of medical tests;
- promote efficient electronic physician order entry;
- increase access to health information for consumers and their providers; and
- improve health outcomes.

The Authority must coordinate a strategy for the adoption of health information technology systems based on the final report and recommendations of the Authority and Board due in December 2006. It is the stated intent of the act to encourage all hospitals, integrated delivery systems, and providers to adopt health information technologies by 2012.

The Authority is authorized to accept grants, gifts, and other payments to implement authorized initiatives and strategies.

The Department of Corrections (Department) must create a demonstration project to establish an integrated electronic health records system to facilitate and expedite the transfer of inmate health information between state and local correctional facilities, if funded in the state budget. The project must be created with one county jail system, one city jail system located within that county, and one state prison. By December 2006, the Department must provide recommendations to the Legislature regarding the implementation of a statewide integrated electronic health records system for correctional facilities. The recommendations must include information from other demonstration projects about costs, anticipated savings, benefits, and required statutory changes.

Votes on Final Passage:

House	75	23	
Senate	45	2	(Senate amended)
House	83	12	(House concurred)

Effective: June 7, 2006

E2SHB 2575
PARTIAL VETO
C 307 L 06

(Establishing a health technology clinical committee.

By House Committee on Appropriations (originally sponsored by Representatives Cody, Morrell and Moeller; by request of Governor Gregoire).

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

Background: The Agency for Healthcare Research and Quality (AHRQ) is the health services research arm of the U.S. Department of Health and Human Services (DHHS). Its mission is to improve the quality, safety, efficiency, and effectiveness of health care for all Americans. The AHRQ sponsors and conducts research that provides evidence-based information on health care outcomes, quality, cost, and access for use by health care decision makers, including patients, clinicians, health system leaders, federal and state policymakers, and oth-

ers. In 1997, it launched its initiative to promote evidence-based practice in everyday health care through establishment of 12 Evidence-based Practice Centers (EPCs). The EPCs develop evidence reports and technology assessments on topics relevant to clinical, social science/behavioral, economic, and other health care organization and delivery issues, specifically those that are common, expensive, and/or significant for the Medicare and Medicaid populations. With this program, the AHRQ became a "science partner" with private and public organizations in their efforts to improve the quality, effectiveness, and appropriateness of health care by synthesizing the evidence and facilitating the translation of evidence-based research findings.

The EPC program is a user-driven research partnership with private and public sector organizations to facilitate the translation and dissemination of research findings to the memberships and other target audiences of the partner organizations. These include federal and state agencies, private sector professional societies, health delivery systems, providers, payers, and others committed to evidence-based health care. Topics of interest identified by these partners may address clinical, social science/behavioral, economic, and other health care organization and delivery issues. They generally are common, expensive, and otherwise significant topics for Medicare, Medicaid, or other special populations.

Since the start of the program in 1997, the EPCs have conducted more than 100 systematic reviews and analyses of the literature on a wide spectrum of topics. The major products of the program are evidence reports, including comprehensive and more focused systematic reviews and technology assessments. These are based on rigorous syntheses and analyses of scientific literature.

In June 2002, the AHRQ announced the award of a second round of five-year contracts to the following 13 EPCs:

Blue Cross and Blue Shield Association Technical Evaluation Center, Chicago, IL;
Duke University, Durham, NC;
ECRI (formerly Emergency Care Research Institute), Plymouth Meeting, PA;
Johns Hopkins University, Baltimore, MD;
McMaster University, Hamilton, Ontario, Canada ;
Oregon Health & Science University, Portland, OR;
Research Triangle Institute International-University of North Carolina, Chapel Hill, NC ;
Southern California Evidence-based Practice Center Research and Development, Santa Monica, CA;
Stanford University, Stanford, and University of California, San Francisco, CA;
Tufts-New England Medical Center, Boston, MA;
University of Alberta, Edmonton, Alberta, Canada;
University of Minnesota, Minneapolis, MN; and
University of Ottawa, Ottawa, Canada.

The 13 EPCs under contract to the AHRQ produce science syntheses, evidence reports and technology assessments that provide public and private organizations the foundation for developing and implementing their own practice guidelines, performance measures, educational programs, and other strategies to improve the quality of health care and decision making. The evidence reports and technology assessments also may be used to inform coverage and reimbursement policies.

In 2003, the Legislature directed the Health Care Authority (HCA) to establish an evidence-based prescription drug program. The program includes an independent pharmacy and therapeutics committee and a contract with one of the 13 EPCs established by the federal government to conduct the scientific review of prescription drug classes for the State Preferred Drug List.

Also in 2003, the Legislature directed the HCA to coordinate state agency efforts to develop and implement uniform policies to ensure prudent, cost-effective health services purchasing, maximize administrative efficiencies, improve the quality of care provided, and reduce administrative burdens on health care providers. The polices include: (1) health technology assessment; (2) monitoring health outcomes; (3) developing a common definition of medical necessity; and (4) developing common strategies for disease management and demand management.

Summary: The Evidence-Based Health Technology Assessment Program (Program) is established. It will conduct systematic reviews of scientific and medical literature, establish a statewide health technology clinical committee, and fund evidence-based health technology assessments. The Program will also develop methods and processes to track health outcomes and other data across state agencies and provide transparent access to the scientific basis of coverage decisions and treatment guidelines. The health technology assessments may be performed at federally designated assessment centers or other appropriate entity. The membership of the clinical committee is specified, and members must disclose any conflicts of interest. Meetings of the clinical committee are subject to the Open Public Meetings Act. The Program does not apply to state-purchased health care purchased through health carriers. Participating state agencies will comply with clinical committee recommendations, unless they violate federal law or regulations, or state law.

The number of technologies that may be reviewed in the first year of operations is limited to six, and in the second year to eight. The Health Technology Committee must make determinations consistent with decisions made by Medicare and by expert treatment guidelines, unless the Committee concludes that substantial evidence supports a contrary determination. Enrollees and clients of state purchased health care programs may serve on ad hoc advisory committees. An appeals pro-

cess is established for patients, providers, and stakeholders to appeal determinations of the Health Technology Committee.

Votes on Final Passage:

House	72	26	
Senate	48	0	(Senate amended)
House	97	1	(House concurred)

Effective: June 7, 2006

Partial Veto Summary: The Governor vetoed the requirement that the Administrator of the Health Care Authority establish a process for patients, providers, and other stakeholders to appeal coverage determinations of the health technology clinical committee.

VETO MESSAGE ON E2SHB 2575

March 29, 2006

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

Ladies and Gentlemen:

I am returning, without my approval as to Section 6, Engrossed Second Substitute House Bill No. 2575 entitled:

"AN ACT Relating to establishing a state health technology assessment program."

I strongly support ESSHB No. 2575 and particularly its inclusion of language that protects an individual's right to appeal. Section 5(4) of the bill states that 'nothing in this act diminishes an individual's right under existing law to appeal an action or decision of a participating agency regarding a state purchased health care program. Appeals shall be governed by state and federal law applicable to participating agency decisions.' This is an important provision and one that I support whole-heartedly.

I am, however, vetoing Section 6 of this bill, which establishes an additional appeals process for patients, providers, and other stakeholders who disagree with the coverage determinations of the Health Technology Clinical Committee. The health care provider expertise on the clinical committee and the use of an evidence-based practice center should lend sufficient confidence in the quality of decisions made. Where issues may arise, I believe the individual appeal process highlighted above is sufficient to address them, without creating a duplicative and more costly process.

In the implementation of this bill, I expect the Health Care Authority, with the cooperation of participating agencies, to facilitate a timely and transparent process, to prioritize and manage the review of technologies within appropriated funds, and to meaningfully consider stakeholder feedback regarding the program and appeals processes. I further expect that the implementation of the Health Technology Assessment Program will be consistent with sound methods of assessment and the principles of evidence-based medicine.

I appreciate the Legislature's passage of this bill and have full confidence that it will help ensure that Washingtonians receive health care services that are safe and effective.

For these reasons, I have vetoed Section 6 of ESSHB No. 2575.

With the exception of Section 6, ESSHB No. 2575 is approved.

Respectfully submitted,

Christine O. Gregoire
Governor

SHB 2576
C 138 L 06

Creating sexual assault protection orders.

By House Committee on Judiciary (originally sponsored by Representatives Williams, Green, O'Brien, Kirby, Hunt, Ericks, Simpson, Lovick, McCoy, Lantz, Ormsby, Springer and Conway).

House Committee on Judiciary
Senate Committee on Judiciary

Background: There are several types of orders a court may grant that restrict a person's ability to have contact with another person. Although there is potential overlap, the orders generally differ in who they apply to and in what context. For example, no-contact orders are available in criminal proceedings and may be imposed as a condition of release or sentence. Domestic violence protection orders are civil orders and apply to victims of domestic violence committed by family or household members, including persons in dating relationships. Anti-harassment orders are civil orders and may be obtained by a person who is the victim of on-going conduct that is considered seriously annoying, alarming, or harassing.

For domestic violence protection orders, the superior, district, and municipal court jurisdiction all have jurisdiction to issue an order. However, district and municipal courts is limited under certain circumstances, such as when the superior court has a pending family law action involving the parties.

Generally, it is a gross misdemeanor if the person to be restrained knows of the order and violates certain restraint provisions in the order. However, a violation may be a class C felony under certain circumstances, such as if the person violating the order has two prior convictions for violations.

Summary: A new civil order is created called the sexual assault protection order (SAPO).

Filing a Petition. A person who is a victim of nonconsensual sexual conduct or nonconsensual sexual penetration, including a single incident, may file a petition for a SAPO. A third party may file on behalf of a victim who is a minor child, a vulnerable adult, or any other adult who cannot file the petition due to age, disability, health, or inaccessibility. A person 16 years old or older may file a petition on his or her own behalf. The court need not appoint a guardian or guardian ad litem on behalf of a respondent who is 16 years old or older.

The petition must be accompanied by an affidavit stating specific statements or actions made at the time of the sexual assault or subsequently thereafter that give rise to a reasonable fear of future dangerous acts.

The petitioner must file the action in the county or municipality where the petitioner resides. Jurisdiction over these orders is the same as court jurisdiction over

domestic violence protection orders. No filing fee may be charged.

Service of Process and Hearings. Upon receipt of the petition, the court must order a hearing no later than 14 days from the date of the order. Personal service must be made upon the respondent not less than five court days before the hearing. If timely personal service cannot be made, the court must set a new hearing date and require additional service attempts.

The court may order a hearing by telephone to accommodate a disability or, in exceptional circumstances, to protect a petitioner. The court may appoint counsel to represent the petitioner if the respondent is represented by counsel.

Procedures are established regarding the admissibility of evidence regarding the petitioner's prior sexual activity or reputation.

Ex Parte Temporary Orders and Final Orders. If the court finds by a preponderance of the evidence that the petitioner has been a victim of nonconsensual sexual conduct or nonconsensual sexual penetration by the respondent, the court must issue a SAPO.

To obtain an ex parte temporary SAPO, the petitioner must show that there is good cause to grant the remedy, regardless of prior service of process or notice upon the respondent because the harm which the order is intended to prevent would likely occur if the respondent were given any prior notice or greater notice than was actually given. An ex parte temporary SAPO order is effective for a fixed period not to exceed 14 days. A full hearing must be set within that 14 day period.

Generally, a final SAPO is effective for a fixed period of time not to exceed two years. However, the duration of an order may vary when entered in conjunction with a criminal proceeding. The order may be extended one or more times.

Relief Granted in the Order. The court may prohibit the respondent from having any contact, including nonphysical contact, with the petitioner directly, indirectly, or through third parties. The court must consider certain factors in cases where the petitioner and respondent are under the age of 18 and attend the same elementary, middle, or high school.

A petitioner must not be denied a SAPO because the petitioner is a minor or because the petitioner did not report the assault to law enforcement. The court may not require proof of physical injury. In addition, the court may not deny relief based on evidence that the respondent or the petitioner was voluntarily intoxicated or evidence that the petitioner engaged in limited consensual sexual touching.

Other Provisions. Violations of a SAPO are punishable under the penalty provision governing domestic violence protection orders. Various statutes that recognize domestic violence protection orders are amended to include sexual assault protection orders.

An ex parte temporary order is not admissible in a subsequent civil action for damages arising from the conduct alleged in the petition or order.

"Sexual conduct," "sexual penetration," and "nonconsensual" are defined. Other provisions are established, including provisions for keeping a petitioner's addresses confidential in court filings, modifying the terms of an order, establishing the role of sexual assault victim advocates, and requiring that, by September 1, 2006, the Administrative Office of the Court create standardized forms and informational brochures for sexual assault protection orders.

Votes on Final Passage:

House	97	0	
Senate	47	0	(Senate amended)
House			(House refused to concur)
Senate			(Senate receded)
Senate	45	0	(Senate amended)
House	98	0	(House concurred)

Effective: June 7, 2006

EHB 2579
C 113 L 06

Requiring classroom-based civics assessments.

By Representatives Upthegrove, Lantz, Dickerson, Appleton, Morrell, Hasegawa, Quall, Hunter, Haler, O'Brien, Murray, Hunt, Schual-Berke, Ormsby, Springer and Moeller.

House Committee on Education
Senate Committee on Early Learning, K-12 & Higher Education

Background: The goals of the Basic Education Act include providing students with opportunities to develop the knowledge and skills essential to know and apply the core concepts and principals of, among other subjects, civics, history, and geography. The Superintendent of Public Instruction (SPI) must develop Essential Academic Learning Requirements (EALR's) in line with these goals.

Students in elementary, middle, and high school are required to learn the state's EALRs in social studies. The State Board of Education's regulations define social studies to include history, geography, and civics. By the 2008-09 school year, school districts must have assessments or other strategies in place to ensure their students have had an opportunity to learn the EALRs in social studies.

Washington law requires students to study the state and federal Constitutions before graduating from the state's public or private schools. In addition, public schools are required to have flag exercises at the start of the day, observe Temperance and Good Citizenship Day

on January 16, and provide educational activities in observance of Veteran's Day.

Summary: Social studies is defined to include history, geography, civics, economics, and social studies skills.

Beginning with the 2008-09 school year, students in grades 4, 5, 7 or 8, and 11 or 12 will complete a classroom-based assessment in civics. Districts have the option of selecting their assessment from a list provided by the Office of the Superintendent of Public Instruction (OSPI) of approved assessments. School districts must submit a verification report to the OSPI documenting the districts' use of a classroom-based assessment in civics.

The Office of the Superintendent of Public Instruction (OSPI) is directed to work with the county auditors' offices of up to 15 selected counties to develop a civics curriculum pilot project. The curriculum must include, but is not limited to: (1) local government organization; (2) discussion of ballot measures, initiatives, and referenda; (3) the role of precincts in defining ballots, candidates, and political activities; (4) the roles and responsibilities of taxing jurisdictions in establishing ballot measures; and (5) the work of conducting elections. The OSPI is directed to develop a curriculum guide that incorporates ideas from other Washington civics education programs. The pilot project will operate for the 2006-07 and 2007-08 school years. The OSPI will provide an interim report to the Legislature by December 1, 2008, and a final report by December 1, 2009, regarding the results of the projects and recommendations, if any, for expansion of the project.

Votes on Final Passage:

House	83	15	
Senate	44	1	(Senate amended)
House	76	19	(House concurred)

Effective: June 7, 2006

2SHB 2583
C 308 L 06

Regarding community and technical college part-time academic employee health benefits.

By House Committee on Appropriations (originally sponsored by Representatives Kenney, Cox, Conway, Hasegawa, Roberts, Appleton, Upthegrove, Morrell, Linville, Hunt, Dickerson and Ormsby).

House Committee on Higher Education & Workforce Education
House Committee on Appropriations
Senate Committee on Labor, Commerce, Research & Development
Senate Committee on Ways & Means

Background: Part-time academic employees at community and technical colleges who work half-time or more are eligible for health benefits beginning the second consecutive quarter they are employed half-time or more. They are also eligible for health benefits over the summer quarter even if they work less than half-time, as long as they have worked half-time or more in three of the four quarters preceding the summer quarter.

However, if an employee works less than half-time for one quarter, that employee loses benefit coverage for that quarter as well as for the following summer quarter.

Summary: Part-time academic employees at community and technical colleges who have established eligibility for health care benefits are eligible for continuation of their health care benefits over the summer if they have worked an average of half-time or more in each of the preceding two academic years through employment at one or more community or technical college districts.

Uninterrupted health care benefits for a part-time academic employee at a community or technical college are maintained as long as the employee continues to work at least three of the four quarters of the academic year with an average academic workload of half-time or more. Continuous health care benefit coverage ceases at the end of the academic year if the employee has not maintained at least a half-time average academic workload over three of the four quarters of the academic year.

Employers must notify part-time academic employees of their potential right to benefits, and the employees must notify their employers of their potential eligibility. The State Board for Community and Technical Colleges must report to the Legislature by November 15, 2009, on the feasibility of eliminating the employee reporting requirement.

Votes on Final Passage:

House	98	0
Senate	46	0

Effective: June 7, 2006

SHB 2596
C 162 L 06

Modifying provisions for the cosmetology apprenticeship program.

By House Committee on Commerce & Labor (originally sponsored by Representatives Kenney, McDonald, Conway, Wood, Hasegawa, Hudgins, Rodne, McCoy, Morrell and Ormsby).

House Committee on Commerce & Labor
Senate Committee on Labor, Commerce, Research & Development

Background: Generally, individuals training for a license in cosmetology, barbering, esthetics, or manicuring must attend a cosmetology school licensed by the Department of Licensing (Department). The requirements for becoming licensed as a cosmetologist include graduating from a licensed cosmetology school and pass-

ing an examination.

In 2003, a pilot program was established for cosmetology apprenticeships, with up to 20 participating salons. Under the pilot program, individuals may become licensed in cosmetology, barbering, esthetics, or manicuring by successfully completing a state-approved apprenticeship program and passing the appropriate licensing examination. Apprentices are allowed to receive wages while in the pilot program.

The Department adopted various rules related to the apprenticeship pilot program including rules requiring participating salon/shops to keep certain apprentice records, establishing training requirements, requiring participating salon/shops to post a notice to consumers, and requiring apprentices to wear identification visible to the public.

An advisory committee, coordinated by the Washington State Apprenticeship and Training Council appointed by the Department of Labor and Industries, is responsible for coordinating the apprenticeship pilot program and presenting a report to the Legislature. The apprenticeship pilot program expires July 1, 2006.

Summary: The cosmetology apprenticeship pilot program is extended until July 1, 2008. The program's advisory committee must submit an updated report, including an evaluation of the effectiveness of the program, to the appropriate committees of the Legislature by December 31, 2007. An intent statement outlines additional evaluation criteria, including the number of apprentices who complete the program and pass the licensing examination and a formal review of any impact that the expansion of the program may have on the enrollment of traditional cosmetology schools.

Votes on Final Passage:

House	98	0	
Senate	48	0	(Senate amended)
House	95	0	(House concurred)

Effective: June 7, 2006

HB 2606
C 211 L 06

Allowing volunteer fire fighter personnel to hold elective or appointed office.

By Representatives Curtis, Takko, Orcutt, McDonald, Grant, Hinkle, Clements, Moeller, Chandler, Wallace, Tom, Kretz, Nixon, Blake, Kessler, Rodne, Haigh, B. Sullivan and Morrell.

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

Background: The Common Law Doctrine of "Incompatible Public Offices." The Washington courts have long recognized a common law doctrine known as the "doctrine of incompatible public offices." In applying the doctrine, the courts have held that public offices are incompatible when the nature and duties of the offices are such as to render it improper, in light of public policy, for one person to retain both. Typically, the courts have found public offices to be incompatible when one office is either subordinate to, or subject to the statutory authority of, the other. However, under Washington law, such common law doctrines may be superseded by statute.

The courts have determined that a firefighter employed by a fire department does in fact hold a public office for the purposes of the doctrine of incompatible public offices. Although the courts have not considered whether a volunteer firefighter is a public officer, the Office of the Attorney General issued an opinion finding that volunteer firefighters are public officers and therefore subject to the doctrine.

Statutes Superceding the Doctrine of Incompatible Offices. Pursuant to a statute that supercedes the common law doctrine of incompatible public offices, any city or town may adopt a resolution by a two-thirds vote of its full legislative body authorizing any of the members of that body to serve as volunteer fire fighters, volunteer ambulance personnel, or reserve law enforcement officers. A similar statute allows a member of the board of a fire protection district to serve as volunteer firefighter within the district.

Summary: A volunteer fire fighter working for a city, town, or fire protection district is authorized to serve as an elected public official or hold an appointed public office, provided there is no legal prohibition preventing him or her from taking office. This authorization does not apply to a fire chief.

"Volunteer" is defined to mean any member of a fire department who undertakes firefighting duties without receiving compensation or consideration for such duties. "Compensation" and "consideration" do not include any benefits the volunteer may accrue regarding pension rights and other relief available to volunteer fire fighters.

Votes on Final Passage:

House	96	0	
Senate	45	0	(Senate amended)
House	97	0	(House concurred)

Effective: June 7, 2006

SHB 2608
C 26 L 06

Defining performance of duty for the volunteer fire fighters' and reserve officers' relief and pension act.

By House Committee on Appropriations (originally sponsored by Representatives Curtis, Takko, Bailey, Grant, Orcutt, Hinkle, McDonald, Clements, Moeller,

Chandler, Wallace, O'Brien, Haler, Haigh, Alexander and Morrell).

House Committee on Appropriations
Senate Committee on Ways & Means

Background: The Volunteer Fire Fighters' and Reserve Officers' Relief and Pension System (Volunteer Fire System) provides relief and pension benefits for members of regularly organized volunteer fire departments and law enforcement agencies. Members who serve and make monthly retirement contributions for a period of at least 25 years are eligible to receive a pension benefit at age 65.

Relief benefits include payment of medical expenses and disability pensions for members injured in the performance of duty and payment of burial expenses and survivor benefits for members killed in the performance of duty. The performance of duty is defined to include working at company quarters, fire stations, law enforcement precincts, and at other places under the general orders of the chief or other officer, participating in training activities, or responding to calls to duty or other emergency calls in accordance with the rules of the local fire department or law enforcement agency.

Employers are required to participate in the death, disability, and medical benefit plans offered by the Volunteer Fire System, but participation in the pension component is optional. About 18,000 members are covered by the death, disability, and medical benefits, and 12,000 members are covered by the pension benefits. Volunteer Fire System benefits are administered by the Washington State Board for Volunteer Fire Fighters' and Reserve Officers' (Board) and paid out of the Volunteer Fire System Fund (Fund). Revenues to the Fund come from: a 40 percent share of the premium tax paid on fire insurance policies issued within the state; contributions from volunteer fire fighters, emergency workers, and reserve officers; contributions from participating municipal corporations and emergency service districts; and returns on the investment of moneys in the Fund.

Summary: The definition of "performance of duty" or "performance of service" in the Volunteer Fire System includes other officially assigned duties that are secondary to duties as a fire fighter, emergency worker, or reserve officer, including maintenance, public education, inspections, investigations, court testimony, and fundraising for the benefit of the department. Performance of duty or service also includes being on call or standby under the orders of the chief or designated officer, except at the individual's home or place of business.

Votes on Final Passage:

House	97	0
Senate	47	0

Effective: June 7, 2006

HB 2612
C 268 L 06

Including failure to secure a load in the first degree as a compensable crime under the crime victims' compensation program.

By Representatives Kagi, O'Brien, Darneille, Rodne, Kenney, Schual-Berke, Morrell and Springer; by request of Department of Labor & Industries.

House Committee on Criminal Justice & Corrections
House Committee on Appropriations
Senate Committee on Human Services & Corrections
Senate Committee on Ways & Means

Background: The Washington Crime Victims' Compensation Program administered by the Department of Labor and Industries (L&I) provides 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 (medical treatment and lost wages) under the program provided 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. Statutory language limits the types of claims that the L&I may pay for vehicular accidents. Under the Crime Victims Compensation statute, the L&I may only pay vehicular claims when:

- the injury or death was intentionally inflicted;
- if the accident occurred during the commission of another non-vehicular criminal act; or
- if the driver was impaired by alcohol or drugs.

Victims suffering from the result of the crime of "failing to secure a load" would not be eligible for Crime Victims Compensation benefits.

In 2005, legislation was enacted that created the crime of failing to secure a load. Failure to secure a load in the first degree is committed when a person, with criminal negligence, fails to secure all or part of a load to his or her vehicle and, as a result, causes substantial

bodily harm to another. Failure to secure a load in the first degree is a gross misdemeanor. Failure to secure a load in the second degree is committed when a person, with criminal negligence, fails to secure all or part of a load to his or her vehicle and, as a result, causes damage to the property of another. Failure to secure a load in the second degree is a misdemeanor. Other failures to secure a load to a vehicle that do not rise to the level of first or second degree are designated as traffic infractions and are subject only to a monetary penalty not to exceed $250 per infraction.

Summary: The definition of criminal act in the Crime Victims Compensation statute is expanded to include acts where an injury or death occurred as a result of a driver who committed the offense of "failing to secure a load" in the first degree. (As a result, victims suffering from such an offense would be eligible for Crime Victims Compensation benefits.)

Votes on Final Passage:

House	97	0
Senate	49	0

Effective: June 7, 2006

HB 2617
C 212 L 06

Allowing local jurisdictions to allow off-road vehicles to operate on designated city or county roads.

By Representatives Kretz, Blake, Ahern, Schindler, Sump, Condotta, Holmquist, Kristiansen, Serben, Campbell, McDonald, Hinkle and Dunn.

House Committee on Transportation
Senate Committee on Transportation

Background: Off-Road Vehicle Use. Off-road vehicles (ORVs) may operate on a nonhighway road if the state, federal, local, or private authority responsible for the management of the road has authorized the use of ORVs.

For the purposes of the statutes regulating ORVs, nonhighway roads are defined as roads that are owned or managed by a public agency who has granted an easement for public use, and that do not receive funds from the Motor Vehicle Account. Highway roads are defined as public roads that are generally capable of travel by a conventional automobile.

A local jurisdiction or state agency may regulate the operation of ORVs on land and roads within its jurisdiction, provided such regulations are not less stringent than state statute.

The ORVs must have a use permit decal issued by the Department of Licensing, with certain exceptions. When operating on lands not owned by the ORV owner or operator, ORVs must meet certain equipment standards and operators must wear helmets, unless the ORV has a roll bar or an enclosed passenger compartment. Such ORVs are exempt from the licensing and equipment standards applied to highway vehicles.

Limited Liability for Recreational Use of Lands. Persons who allow their land to be used by the public for certain activities are not liable for unintentional injuries sustained on their property, under certain circumstances. This limited liability applies to persons who allow the following types of activities: outdoor recreation without charging a fee, fish and wildlife cooperative projects, litter cleanup, or firewood cutting and gathering for a fee of up to $25.

Summary: Off-Road Vehicle Use. The following cities or counties may allow the use of off-road vehicles on designated city or county roads, including highway roads: (1) cities with a population of less than 3,000; and (2) counties, if the road or highway is a direct connection between a city with a population of less than 3,000 and an ORV recreation facility.

The ORVs operating on designated city or county roads are exempt from the licensing and equipment standards that apply to vehicles operating on highway roads. Such ORVs are not exempted from the use permit, equipment, and operating standards generally applied to ORV use.

Limited Liability for Recreational Use of Lands. Limited liability for unintentional injuries sustained on recreational lands is applied to certain publicly owned ORV sports parks and public facilities accessed by a highway, street, or road for the purposes of ORV use, where a fee of not more than $20 is charged for access.

Votes on Final Passage:

House	84	11	
Senate	46	0	(Senate amended)
House	90	7	(House concurred)

Effective: June 7, 2006

SHB 2640
C 178 L 06

Providing biotechnology product and medical device manufacturing tax incentives.

By House Committee on Finance (originally sponsored by Representatives B. Sullivan, McCoy, O'Brien, Haler, Sells, Morris, Ericks, Strow and Dunn).

House Committee on Technology, Energy & Communications
House Committee on Finance
Senate Committee on International Trade & Economic Development
Senate Committee on Ways & Means

Background: Biotechnology in Washington. According to the Department of Community, Trade and Economic Development (DCTED), Washington has 190 companies dedicated to biotechnology, of which:

- 37 percent pursue the research and development of therapeutic products;
- 27 percent focus on diagnostics;
- 21 percent engage in contract manufacturing and genetic testing;
- 9 percent undertake plant, agriculture and animal research; and
- 4 percent concentrate on natural resources.

Since 1995, local biotechnology companies have attracted more than $400 million in venture capital investment and produced more than $500 million in research partnerships with biotech and pharmaceutical companies. The biotech industry generates an estimated $1.8 billion in revenues and nearly $500 million in exports. The DCTED estimates that biotechnology and medical technology companies in Washington, in 2005, directly employed more than 23,000 people with indirect employment exceeding 69,000.

Sales and Use Tax. Sales tax is imposed on retail sales of most items of tangible personal property and some services, including construction and repair services. The use tax is imposed at the same rate as the retail sales tax on items used in Washington that were not subject to the sales tax. Sales and use taxes are imposed by the state, counties, and cities. There are a number of sales and use tax exemptions, including machinery and equipment directly used in manufacturing.

Summary: Biotechnology and Medical Device Tax Incentive. Targeted tax incentives are created to encourage the formation, expansion, and retention of commercial operations related to biotechnology product and medical device manufacturing.

Persons constructing an eligible biotechnology or medical device investment project qualify for a sales and use tax deferral that need not be repaid as long as the project involves biotechnology and/or medical devices for at least eight years. An eligible investment project means an investment in qualified buildings or qualified machinery and equipment, including labor and services rendered in the planning, installation, and construction of the project.

If a person changes the use of the project for purposes other than qualified biotechnology product or medical device manufacturing at any time during the first eight years of operation, portions of the deferral must be repaid. Deferred taxes to be repaid equal 100 percent for the first year and are reduced by 12.5 percent per year up to year eight.

Applications for deferral of taxes must be made in a form and manner prescribed by the Department of Revenue and approved before initiation of construction or acquisition of equipment or machinery.

Biotechnology means a technology based on the science of biology, microbiology, molecular biology, cellular biology, biochemistry, or biophysics, or any combination of these, and includes, but is not limited to, recombinant DNA techniques, genetics and genetic engineering, cell fusion techniques, and new bioprocesses, using living organisms or parts of organisms.

Biotechnology product means any virus, therapeutic serum, antibody, protein, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, or analogous product produced through the application of biotechnology that is used in the prevention, treatment, or cure of diseases or injuries to humans.

Medical device means an instrument, apparatus, implement, machine, contrivance, implant, in vitro regent, or similar or related article, including any component, part, or accessory, that is designed or developed and:

1) recognized in the national formulary, or the United States pharmacopeia, or any supplement to them;
2) intended for use in the diagnosis of disease, or in the cure, mitigation, treatment, or prevention of disease or other conditions in human beings or other animals; or
3) intended to affect the structure or any function of the body of man or other animals, and which does not achieve any of its primary intended purposes through chemical action within or on the body of man or other animals and which is not dependent upon being metabolized for the achievement of any of its principal intended purposes.

Annual Survey. A person who receives the benefit of a biotechnology product and medical device tax deferral must provide an annual survey to the Department of Revenue in order to assist the Legislature in evaluating whether the goals of the legislation are being achieved. The annual survey is due by March 31 following any year in which a tax deferral is claimed or used.

The annual survey must include amount of the tax deferral claimed or used for the reporting year. In addition, it must include: the number of total employment positions; a breakdown of full-time, part-time and temporary employment positions as a percent of total employment; the number of employment positions according to wage bands; and the number of employment positions that have employer-provided medical, dental, and retirement benefits by each of the wage bands. The wage bands are: less than $30,000; $30,000 or greater, but less than $60,000; and $60,000 or greater. If a person fails to submit an annual survey, the Department of Revenue must declare 12.5 percent of the deferred tax from the date of the deferral to be immediately due and payable.

Reporting. The Department of Revenue must use information collected in annual surveys to prepare summary descriptive statistics by category and to study the tax incentive. Statistics must be reported to the Legislature by September 1 of each year. By December 1, 2009, and December 1, 2015, the Department of Revenue must report to the Legislature on the status of the tax incen-

tive. These reports may present information to evaluate whether the goals of the legislation are being achieved. Report measures include, but are not limited to, the number of new biotechnology produce and medical device manufacturing facilities established in Washington; the amount of investment in biotechnology product and medical device manufacturing facilities, and the wages and benefits paid for related jobs.

Votes on Final Passage:

House	93	5
Senate	43	3

Effective: July 1, 2006

HB 2644
C 213 L 06

Increasing temporarily the statewide cap for the customer assistance public utility tax credit.

By Representatives P. Sullivan, Crouse and Kilmer; by request of Department of Trade and Economic Development.

House Committee on Technology, Energy & Communications
House Committee on Finance
Senate Committee on Water, Energy & Environment
Senate Committee on Ways & Means

Background: Low-Income Home Energy Assistance Program. Assistance to low-income energy customers is provided through a federal block-grant program that allocates funds to the states. The program, known as Low-Income Home Energy Assistance Program (LIHEAP), is administered by the Department of Community, Trade and Economic Development (DCTED).

The LIHEAP grants are distributed to qualifying households through a service network of 24 nonprofit community organizations and three local governments. The grants are used to pay a portion of winter heating costs for low-income customers. Qualifying customers are those who are at or below 125 percent of the federal poverty level.

According to the DCTED, Washington received $41.6 million in federal LIHEAP funds in federal fiscal year 2005. These moneys were used to provide assistance to roughly 72,000 households.

Public Utility Tax. Public and privately-owned utilities are subject to the state public utility tax (PUT). The PUT is applied to the gross receipts of the business. The tax rate depends on the utility classification. For light and power businesses, the applicable tax rate is 3.873 percent. For gas distribution businesses, the rate is 3.852 percent. Revenues are deposited to the State General Fund.

The PUT does not allow deductions for the costs of doing business, such as payments for raw materials and wages of employees. Nonetheless, a number of exemptions, credits, deductions, and other preferences have been enacted for specific types of business activities.

In the 2001 legislative session, in the wake of price spikes in the wholesale electricity market, the Legislature enacted a credit against the PUT for qualifying contributions and billing discounts made by gas and electric utilities to qualifying low-income customers. Qualifying contributions are amounts provided to supplement LIHEAP grants to nonprofit community organizations that assist in the administration of such grants. Billing discounts are reductions in the amount charged for providing service to persons eligible for such grants. To qualify for the credit, the utility's billing discounts or qualifying contributions must be at least 125 percent greater than discounts or contributions given by the utility in calendar year 2000. The amount of the credit for each utility is equal to one-half the total discounts and contribution given in a fiscal year.

The maximum total credit available statewide each year is $2.5 million. Each utility is also limited to a maximum credit amount based on its proportional share of energy assistance grants received by its low-income customers. Any credit that is not used in a fiscal year lapses for that utility and may be reapportioned to other qualifying utilities. The total credit available to a utility is its maximum available credit plus any portion of unused credits that are reapportioned to it.

In state fiscal tear 2005, almost $2.5 million in credits were claimed against the PUT under the program.

Summary: The total amount of credit available statewide under the public utility tax credit program for qualifying contributions and billing discounts is temporarily increased to $5.5 million for state fiscal year 2007 alone.

Votes on Final Passage:

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

Effective: July 1, 2006

ESHB 2651
C 75 L 06

Regarding disclosure of animal information.

By House Committee on Economic Development, Agriculture & Trade (originally sponsored by Representatives Pettigrew, Kristiansen, Haigh, Buri, Walsh, Linville, Kretz, Grant, Cox, Newhouse, Holmquist, Blake, Armstrong and Springer).

House Committee on Economic Development, Agriculture & Trade
Senate Committee on Agriculture & Rural Economic Development

Background: National Animal Identification System (NAIS) Purposes. In 2004, the U.S. Department of Agriculture (USDA) initiated the NAIS as a comprehensive information system to support ongoing animal disease monitoring, surveillance, and eradication programs. When fully operational, the system is planned to be in use in all states to identify and track animals as they come into contact and commingle with animals other than those in their premises of origin. The system is intended to enable animal health officials to trace a sick animal or group of animals back to the herd or premises that was the most likely source of infection. A stated long-term NAIS goal is to be able to identify all premises and animals that had direct contact with a foreign animal disease or domestic disease of concern within 48 hours of discovery.

NAIS Implementation. The NAIS implementation involves both the federal and state departments of agriculture and has three phases: premise registration; animal identification; and animal movement reporting. The program is voluntary, but may become mandatory at the federal level in 2009 or 2010.

The first phase, voluntary premise registration, is a state and tribal responsibility. A premise is a location where animals are born, managed, marketed or exhibited. The state Department of Agriculture began premise registrations in January 2005. In the past year, 875 Washington premises have registered using an application that calls for the following information:

- "Account Information": primary and alternate contact names; account number; mailing address; telephone/fax/e-mail; business type (LLC, non-profit, incorporated, government, etc.); business operation type (lab, slaughter plant, market/collection point, quarantine facility, production unit, exhibition, etc.); and
- "Premise Information": name/description of premise ("back 40;" "barn #2"); premise number if known; physical address; longitude/latitude if known; primary contact name, telephone/fax; legal description of land (township, range, section); and premise operation type (lab, slaughter plant, market/collection point, quarantine facility, production unit, exhibition, etc.).

The second phase of NAIS will involve issuance of unique individual or group lot animal identification numbers. Nationally, a number of industry/government species-specific workgroups have formed to consider which types of identification will work best for their particular animals. Methods under consideration include radio frequency identification tags, retinal scans, DNA, and other options.

The third phase will focus on collection of information on animal movement from one premises to another. Although the USDA had initially announced plans for the data to reside in a central federal database, the agency recently stated that there will be no single repository, but instead multiple databases, some with the private sector and some with states. The databases will include: records of the animal identification number; the premises identification number where the movement takes place; the date and type of event such as movement in or out of a premises, or termination of the animal. Additional information pertinent to an animal disease investigation such as species, age, and breed may also be reported and stored.

Access to Data and Disclosure. According to the USDA, federal, state, and tribal animal health and public health officials will have access to the databases when they need information to administer animal health programs. Proprietary production data will not be retained by the USDA.

Due to privacy concerns voiced by producers, the USDA had been investigating options for protecting the confidentiality of animal premises, identification and movement data from the Freedom of Information Act (FOIA). Because public disclosure laws, rules, and issues vary from state to state, there is no standardized approach being taken by states with respect to public disclosure exemptions for premises, identification, and movement data.

Reportable and Non-Reportable Diseases/Public Disclosure. The Director of the Department is authorized to designate by rule certain animal diseases as "reportable" by veterinarians, veterinary laboratories, and others when required by statute. Some are categorized as emergency diseases which must be reported to the State Veterinarian on the day discovered. Examples are: Bovine Spongiform Encephalopathy (BSE), Exotic Newcastle Disease, Foot and Mouth Disease, and High Pathogenic Avian Influenza. Some must be reported the next working day when suspected or confirmed, including: Brucellosis, Chronic Wasting Disease, and Lyme Disease. Other diseases are reportable monthly. When reportable disease investigations are complete, both positive and negative results must be disclosed according to World Animal Health Organization (OIE) codes.

Results of testing requested by an animal owner for diseases not required to be reported is subject to public disclosure.

Summary: Information that is submitted by an individual or business for participation in a state or national animal identification system is exempt from public disclosure. However, disclosure of such information to government officials at the local, state or federal levels is not public disclosure. In addition, the exemption does not affect disclosure of information used in an investigation of a reportable animal disease once the investigation is complete. The results of testing for an animal disease not required to be reported that is (1) done at the request of the owner or his or her designee and (2) can be identi-

fied to a particular business or individual is exempt from public disclosure.

Votes on Final Passage:

House 95 0
Senate 44 0

Effective: June 7, 2006
July 1, 2006 (Section 3)

SHB 2654
C 134 L 06

Prohibiting certification of sex offenders as sex offender treatment providers.

By House Committee on Criminal Justice & Corrections (originally sponsored by Representatives Darneille, Strow, O'Brien, Lantz, Rodne, Simpson, Clibborn, McDonald, Conway, Miloscia, B. Sullivan and Ericks).

House Committee on Criminal Justice & Corrections
Senate Committee on Human Services & Corrections

Background: The Department of Health (DOH) is authorized to: issue certified and certified affiliate sex offender treatment provider certifications; determine minimum education, experience, and training requirements; and deny certification in accordance with the Uniform Disciplinary Act.

The DOH has the authority to issue an affiliate certificate to any person who:

- successfully completes the education requirements or other alternative training that meets the criteria and approval of the DOH;
- successfully completes the examination administered by the DOH;
- shows proof that he or she is being supervised by a certified sex offender treatment provider;
- has not engaged in unprofessional conduct or has not been unable to practice with reasonable skill and safety as a result of a physical or mental impairment; and
- has met any other requirements as established by the DOH that impact the competence of the sex offender treatment provider.

Only certified sex offender treatment providers and certain experienced certified affiliate providers may provide:

- evaluations for offenders eligible for the Special Sex Offender Sentencing Alternative (SSOSA) and the Special Sex Offender Disposition Alternative (SSODA);
- treatment to convicted or adjudicated sex offenders who were sentenced and ordered into treatment as part of a court order; and
- treatment to sexually violent predators released to a less restricted alternative (LRA) unless specified exceptions apply.

Similar to certified sex offender treatment providers, certified affiliate sex offender treatment providers may provide treatment to sex offenders. However, only certified providers or those certified affiliate sex offender treatment providers that have completed at least 50 percent of the required hours under the supervision of a certified provider, may perform evaluations for offenders eligible for the SSOSA and SSODA programs as well as provide treatment to convicted level III sex offenders and sexually violent predators released to a LRA. All other affiliate treatment providers are prohibited from providing evaluations and treatment to such sex offenders.

A certified or certified affiliate sex offender treatment provider may not provide treatment to sexually violent predators if the provider has been convicted of a sex offense or restricted from practicing within the health care profession. These same restrictions do not apply to certified or certified affiliate sex offender treatment providers who provide treatment to other sex offenders who are not classified as sexually violent predators.

A certified affiliate sex offender treatment provider is a licensed, certified, or registered health professional who is certified as an affiliate to examine and treat sex offenders and sexually violent predators under the supervision of a certified sex offender treatment provider. Certified affiliates meet all the requirements that full certified providers meet, except for the clinical experience.

Summary: A certified or certified affiliate sex offender treatment provider may not provide treatment to any type of convicted sex offender if the provider has been convicted of a sex offense.

The DOH may not issue a certificate or affiliate certificate to any sex offender treatment provider that has been convicted of a sex offense.

Votes on Final Passage:

House 98 0
Senate 47 0

Effective: June 7, 2006

ESHB 2661
C 4 L 06

Expanding the jurisdiction of the human rights commission.

By House Committee on State Government Operations & Accountability (originally sponsored by Representatives Murray, Hankins, Pettigrew, Jarrett, McDermott, Grant, Lovick, Haigh, Moeller, Shabro, Santos, Kessler, Upthegrove, Tom, Hunter, Hasegawa, Walsh, Fromhold, Springer, Appleton, McCoy, Chase, Hudgins, Kenney, Lantz, Hunt, Darneille, Quall, Takko, Sommers, Williams, Sells, Green, Schual-Berke, Simpson, Clibborn, Conway, Linville, Cody, Kagi, B. Sullivan,

McIntire, Dickerson, Miloscia, Roberts and Ormsby; by request of Governor Gregoire).

House Committee on State Government Operations & Accountability
Senate Committee on Financial Institutions, Housing & Consumer Protection

Background: Washington's Law Against Discrimination establishes that it is a civil right to be free from discrimination based on race, color, creed, national origin, sex, the presence of any sensory, mental, or physical disability, or the use of a trained dog guide or service animal. This right applies to: employment; places of public resort, accommodation, or amusement; commerce; and real estate, credit, and insurance transactions.

To effectuate the right to be free from discrimination, the law defines certain practices as being unfair. For example, it is deemed to be an unfair practice to fire or to refuse to hire a person based on sex, race, creed, color, national origin, marital status, the presence of any sensory or physical disability, or the use of a trained dog guide or service animal.

There are some exceptions to the Law Against Discrimination. For example, in the employment context, employers with fewer than eight employees and nonprofit religious or sectarian organizations are exempt from this law.

The Washington State Human Rights Commission (WSHRC) is responsible, in part, for administering and enforcing the Law Against Discrimination. The WSHRC receives and investigates complaints made by persons alleging unfair practices in violation of this law. If the WSHRC finds that there is reasonable cause to believe that discrimination has occurred, it must first try to eliminate the unfair practice via conference and conciliation. If this process fails, the WSHRC must refer the matter to an administrative law judge who may, after a hearing on the matter, issue an order providing relief to the complainant.

Summary: The Law Against Discrimination is expanded to prohibit discrimination based on a person's sexual orientation. "Sexual orientation" is defined as heterosexuality, homosexuality, bisexuality, and gender expression or identity. "Gender expression or identity" is defined as having or being perceived as having a gender identity, self-image, appearance, behavior, or expression, whether or not that gender identity, self-image, appearance, behavior, or expression is different from that traditionally associated with the sex assigned to that person at birth.

Real estate transactions that include the sharing, rental, or sublease of a dwelling unit when the dwelling unit is to be occupied by the owner or subleasor are exempted from the Law Against Discrimination. Further, the Law Against Discrimination is not to be construed: to require an employer to establish employment goals or quotas based on sexual orientation; to modify or supersede state law relating to marriage; or to endorse any specific belief, practice, behavior, or orientation.

Votes on Final Passage:

House	60	37	
Senate	25	23	(Senate amended)
House	61	37	(House concurred)

Effective: June 7, 2006

SHB 2670
C 111 L 06

Authorizing hospital benefit zone financing.

By House Committee on Finance (originally sponsored by Representatives Kilmer, Lantz, Priest, Talcott, Green, Conway, Darneille, Cody, Hinkle, Linville, Flannigan, Miloscia and Moeller).

House Committee on Finance
Senate Committee on Ways & Means

Background: Community Revitalization Financing. Counties, cities, towns, and port districts are authorized under the Community Revitalization Program to create areas within their boundaries where community revitalization projects are financed by diverting a portion of the regular property taxes imposed by local governments within the area. Community revitalization projects include traditional public infrastructure improvements, such as street and road construction and maintenance, as well as certain specified public services relating to management, analysis, planning, security, and historic preservation within the area.

To create a tax increment area for the purposes of community revitalization financing, the jurisdiction must first receive approval of jurisdictions which in the aggregate impose at least 75 percent of the regular property taxes within the area, as well as approval from any fire district with territory in the area. The jurisdiction must then adopt an ordinance designating the area as a tax increment area and specify the improvements to be financed. Public hearings must be held on the proposed financing of the public improvements. Notice of the hearings must be published in a local newspaper and the copies of the proposed ordinance must be delivered to local officials in affected jurisdictions.

Local governments that utilize community revitalization financing may issue general obligation bonds or revenue bonds to fund the public improvements authorized by the program. Under state law, general obligation bonds are backed by the full faith and credit of the issuing government and may be issued with a maturity of up to 40 years. In contrast, revenue bonds are typically paid from a dedicated stream of revenue and typically have higher interest-related costs than general obligation bonds. Under the community revitalization program,

revenue bonds may be issued with a maturity of up to 30 years.

Sales and Use Tax. There is a 6.5 percent retail sales tax levied by the state on the selling price of tangible personal property and certain services purchased at retail. A complimentary 6.5 percent use tax is imposed on items and services that are otherwise taxable under the state retail tax but for which the tax has not been paid. This includes purchases made from out-of-state sellers, purchases from sellers who are not required to collect Washington sales tax, items produced for use by the producer, and gifts and prizes. The tax is measured by the value of the item at the time of the first use within the state, excluding any delivery charges.

Counties and cities may impose several local sales and use taxes at various rates and for various purposes. The tax base for most local taxes is the same as under the state retail sales and use taxes. The most widely utilized local sales and use taxes are the basic tax at a rate of 0.5 percent and an optional tax at a rate of up to 0.5 percent. The basic and optional tax receipts may be used for any general purpose.

There are some state-shared local taxes in which the local tax is credited against the state sales tax, including 2 percent hotel/motel tax upon accommodations by cities and counties. This type of local tax does not represent an additional tax but rather a diversion of state receipts to the local jurisdiction.

Planned improvements in Gig Harbor. Fransiscan Health System received approval from the Washington State Department of Health in May 2004 to build a new 80 bed community hospital in Gig Harbor to meet the health care needs of Gig Harbor, Key Peninsula, and south Kitsap County residents. As part of the approval process, the Department of Health issued a certificate of need. The state Certificate of Need Program is intended to allow the development of needed new healthcare services and facilities to promote competition and growth without destabilizing the existing system.

Summary: Counties, cities and towns may finance certain public improvements within a defined area using revenue generated through a new sales and use tax, up to $2 million per project per year, credited against the state sales and use tax, and matched with an equivalent amount of local resources. The defined area, called a benefit zone, must include a hospital that has received a certificate of need.

The public improvements that may be financed with hospital benefit zone financing include the same infrastructure projects for which community revitalization financing may be used, such as street construction and park facility improvements.

Conditions under which hospital benefit zone financing may be utilized are enumerated. Several are analogous to those under the community revitalization program, concerning the adoption of an ordinance, the expectation that the improvement will encourage private development, and the expectation that any related private developments will be consistent with the local comprehensive plan. In addition, in order to use hospital benefit zone financing, the public development must be expected to support a hospital that has received a certificate of need, as well as to increase private investment, employment, and local retail sales and use taxes within the zone.

To create a benefit zone, a local government must obtain a written agreement from another local government that imposes local sales and use tax within the zone, if the other local government opts to participate in hospital benefit zone financing. The sponsoring jurisdiction must hold a public hearing on the proposal and provide notification of the proposal through a local newspaper. The jurisdiction must then adopt an ordinance establishing the zone, with a description of the physical boundaries, expected costs of the improvements, and estimates of expected tax revenue allocated to the purpose of hospital benefit zone financing.

A local government that creates a hospital benefit zone may allocate excess excise taxes received by it from taxable activity within the zone for the purposes of financing public improvements. The excess excise tax is the amount of local sales and use taxes received by a local government within the zone over and above the amount received there during the base year. The base year is the calendar year immediately after the creation of the zone and the measurement year is a calendar year, beginning with the calendar year following the base year, that is used annually to measure the amount of excess excise taxes to be used to finance the public improvement costs. If a local government demonstrates that no retail activity occurred in the area represented by the zone in the 12 months before the creation of the zone, then all local sales and use taxes collected after the zone was created are considered excess excise taxes.

A local government that utilizes hospital benefit zone financing and receives approval from the Department of Revenue (Department) may impose a new local sales and use tax. The tax is imposed at a 6.5 percent rate and is credited against the full amount of the state sales tax. The tax may be first imposed on July 1, 2007. Imposition of the tax is contingent upon receipt of local excess excise taxes in the prior calendar year, and the tax may no longer be imposed when the bonds that are issued are retired. The tax must be suspended each fiscal year when the amount collected during the fiscal year equals either the amount of local excess excise taxes, and after local matching funds, the amount of state sales and use taxes collected in the measurement year over and above the amount in the base year, or $2 million. Money from the new local tax must be used for the sole purpose of principal and interest payments on bonds issued for an eligible public improvement within the zone and must be

matched with an amount from local public sources dedicated through December 31 of the previous calendar year. Local public sources can include private monetary contributions as well as excess excise taxes.

The Department must approve the amount of the sales and use tax that an applicant may impose, but no more than $2 million per applicant. The aggregate statewide limit for credit against the state sales and use tax is $2 million per year.

The local government that utilizes the new financing tool may issue revenue bonds to pay for the public improvements. The terms and conditions are the same as for the revenue bond authority under community revitalization financing.

The local government utilizing the new sales and use tax must provide an annual report to the Department by March 1 of each year. The report must include an accounting of revenues allocated for the purposes of the program, as well as business, employment, and wage information pertaining to the benefit zone. The Department must make a report available to the public and the Legislature by June 1 of each year, based on information received from participating local governments.

Votes on Final Passage:

House	94	1
Senate	46	2

Effective: July 1, 2006

HB 2671
C 256 L 06

Providing excise tax relief by modifying due dates and eliminating an assessment penalty.

By Representatives Ericks, Kessler, Simpson, Clibborn, Morrell, Springer, Dunn and Wallace; by request of Governor Gregoire.

House Committee on Finance
Senate Committee on Ways & Means

Background: The Department of Revenue (DOR) collects the state's major excise taxes, such as the retail sales tax and the Business and Occupation (B&O) tax. For large businesses, excise taxes must be paid monthly. The due date is the 20th day of each month for activity in the previous month. In 2003, the Legislature changed the due date for monthly tax returns from the 25th to the 20th day. The DOR is authorized by statute to allow smaller businesses to report taxes quarterly or annually. Quarterly and annual returns are due by the end of the month following the end of the reporting period.

Penalties are imposed if taxes are not paid on time. In 2003, the Legislature increased penalties for late excise taxes. A new penalty of 5 percent was applied to any billing or assessment of unpaid tax by the DOR. If taxes remain unpaid, the penalties increase over time.

In 1990, the Legislature required taxpayers with an annual tax liability of more than $240,000 to make payment of their excise tax returns using electronic funds transfer (EFT). In 1999, the Legislature allowed any taxpayer to make payment using electronic funds. An EFT payment must be completed so that the state receives the collectible funds on or before the next banking day after the due date.

Summary: Taxpayers filing monthly excise tax returns are required to report and pay taxes by the 25th of the month rather than the 20th. This change applies to tax returns due after July 31, 2006.

The 5 percent penalty for a billing of unpaid state excise taxes applies only if there is a "substantial underpayment." A substantial underpayment occurs when the payment is less than 80 percent of the tax due and the amount of underpayment is at least $1,000. This change applies to tax assessments originally issued after June 30, 2006.

If a taxpayer uses the automated clearinghouse debit procedure for an EFT, the payment will be deemed to have been received on the due date if the taxpayer initiates the transfer on or before 11:59 p.m. Pacific time on the due date with a payment effective date on or before the next banking day after the due date. A legislative findings section recites an understanding of the automated clearinghouse procedure. These EFT provisions apply to payments due after July 31, 2006.

Votes on Final Passage:

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

Effective: June 7, 2006
August 1, 2006 (Sections 1-4)
July 1, 2006 (Sections 6 and 7)

E2SHB 2673
PARTIAL VETO
C 181 L 06

Authorizing additional alternatives for local infrastructure financing.

By House Committee on Finance (originally sponsored by Representatives Linville, Ericksen, P. Sullivan, Buck, Ericks, Kilmer, Kessler, Grant, Walsh, B. Sullivan, Lantz, Morris, O'Brien, Conway, Morrell and Wallace).

House Committee on Economic Development, Agriculture & Trade
House Committee on Finance
Senate Committee on International Trade & Economic Development
Senate Committee on Ways & Means

Background: Tax Increment Financing. Tax increment financing or community redevelopment financing is a method of redistributing property tax collections within designated areas to finance infrastructure improvements within these designated areas. However, attempts to authorize the use of state property tax revenue in Washington to finance such development have been struck down by the voters and the courts. The main legal impediments under the State Constitution include: the requirement that all property taxes must be uniform on the same class property within the territorial limits of the authority levying the tax; the prohibition on the lending of state credit; and the dedication of state property tax revenues to fund the common schools.

Sales and Use Tax. There is a 6.5 percent retail sales tax levied by the state on the selling price of tangible personal property and certain services purchased at retail. In general, the tax applies to goods, construction (including labor), repair of tangible personal property, lodging for less than 30 days, telephone service, and participatory recreational activities. There are some local taxes that are credited against the state sales tax, including the 2 percent hotel/motel tax upon accommodations by cities and counties. There are also some exemptions, credits, and deferrals to the state retail tax.

There is a 6.5 percent use tax on items not subject to the state retail sales tax. This includes purchases made from out-of-state sellers, purchases from sellers who are not required to collect Washington sales tax, items produced for use by the producer, and gifts and prizes. The tax is measured by the value of the item at the time of the first use within the state, excluding any delivery charges.

Counties and cities may impose several local sales and use taxes at various rates and for various purposes. The tax base is the same as under the state retail sales and use taxes. The most widely utilized local sales and use taxes are the basic tax at a rate of 0.5 percent and an optional tax at a rate of up to 0.5 percent. The funds may be used for any general purpose.

Summary: The local infrastructure financing tool (LIFT) program is created to assist local government promote economic development. The LIFT will be available for selected public improvement projects designed to increase private development in the area and that will utilize increased property tax revenues, excess excise tax revenues and revenues generated through a sales and use tax credited against the state sales and use tax in the revenue development area (RDA) to finance the improvements. An RDA must be comprised of contiguous tracts, lots, pieces or parcels of land and have less than $1 billion in assessed value for the taxable real property within the RDA. The average assessed value per square foot of the taxable land within the RDA may not exceed $70 per square foot. In addition, an RDA may not comprise more than 25 percent of the total assessed value of the taxable real property within the boundaries of the local government creating the RDA. Boundaries of an RDA may not be drawn in such a way as to purposely exclude parcels where economic development is unlikely to occur. A county may only have one RDA within its boundaries. Once created, the boundaries of the RDA may not be changed and may not include any part of an increment area created under Community Revitalization Financing (CRF), unless the CRF increment area was created prior to January 1, 2006.

LIFT Projects. LIFT Projects are approved by the Community Economic Revitalization Board (CERB), in consultation with the Department of Revenue (DOR) and the Department of Community, Trade, and Economic Development. However, demonstration projects must be approved prior to any other application. The demonstration projects are the Bellingham redevelopment project ($1M per year), the Spokane River district project ($1M per year), and the Vancouver Riverwest project ($500K per year). The CERB will apply the following criteria to the remainder of the projects: the project's potential to enhance the sponsoring local government's regional and/or international competitiveness; the project's ability to encourage mixed use development and the redevelopment of a geographic area; achieving an overall distribution of projects statewide that reflect geographic diversity; the estimated wages and benefits for the project is greater than the average labor market area; the estimated state and local net employment change over the life of the project; the estimated state and local net property tax change over the life of the project; and the estimated state and local sales and use taxes increase over the life of the project.

Public Improvements. The LIFT must be used to finance public improvements, including: street, bridge and road construction, and maintenance; water and sewer system construction and improvements; sidewalks, traffic controls, and streetlights; parking, terminal, and dock facilities; park and ride facilities; park facilities and recreational areas; storm water and drainage management systems; and affordable housing. The LIFT may not be used to finance public stadiums currently funded by a public facilities district. The LIFT must be used for public improvements identified within the capital facilities, utilities, housing, or transportation elements of a comprehensive plan required by the Growth Management Act (GMA), except public improvements that are considered historical preservation activities. It must be expected to encourage private investment within the RDA and to increase the fair market value of real property within the RDA. The public improvement costs may include the costs of: design, planning, acquisition, site preparation, construction, reconstruction, rehabilitation, improvement and installation of public improvements; demolishing, relocating, maintaining, and operating of property pending construction of the public improvements; the costs of financing the public

improvements; assessment incurred in revaluing real property and apportioning the taxes in the RDA; and reasonably related administrative costs and feasibility studies.

Creating a Revenue Development Area. The sponsoring local government must have entered or expects to enter into an agreement with a private developer or have received a letter of intent from a private developer relating to the developer's plans for private improvements within the RDA. Such private development must be consistent with the countywide planning policy adopted by the county and the local government's comprehensive plan. The sponsoring local government must make findings that the LIFT is not expected to be used for the purpose of relocating a business from Washington, located outside the RDA, into the RDA, and it will improve the viability of existing business entities within the RDA. In addition, it must find that the RDA is in need of economic development or redevelopment. The local government must also find that the public improvements financed in whole or in part with the LIFT are reasonably likely to:

1) increase private investment within the RDA;
2) increase employment within the RDA;
3) generate, over the period of time that the local sales and use tax will be imposed, state and local property and sales and use tax revenues that are equal or greater than the respective state and local contributions made under this program; and
4) improve the viability of existing communities and increase private residential and commercial investment within the RDA.

Prior to adopting an ordinance creating an RDA, the sponsoring local government must obtain written agreement from any participating local governments and participating taxing districts to use dedicated amounts of revenues from their local public sources, local excise tax allocation revenues, and local property tax allocations for LIFT. The governing body of each participating local government and taxing district must authorize its participation. The sponsoring local government planning to create an RDA must also estimate the impact of the RDA on small business and low-income housing and develop a mitigation plan for the impacted businesses and housing. The ordinance must describe the public improvements, the boundaries of the RDA, estimate the cost of the public improvements and the portion of these costs to be financed by the LIFT, estimate the time during which regular property taxes and excess excise taxes are to be used to finance the public improvement costs, provide the date when the apportionment of the taxes will begin, and make a finding that all conditions necessary to create an RDA are met.

If a local government has created an increment area under the CRF prior to January 1, 2006, and has not issued bonds, it may convert the increment area to an RDA so long as it amends the local government ordinance and complies with all the requirements of this act.

A public hearing must be held by the sponsoring local government at least 30 days before passage of the ordinance establishing the RDA. The public hearing may be held either by the governing body of the sponsoring local government or by a committee of that body comprising at least a majority of the whole governing body. Notice of the public hearing on the proposed ordinance creating the RDA must be sent by U.S. mail to all property owners and business enterprises located within the proposed RDA at least 30 days prior to the hearing. The local government must consult with business organizations and ethnic associations to develop methods of notice that ensure that appropriate notice is provided to the business enterprises and property owners for whom English is a second language.

Local Property Tax Allocation Revenue Value. The property tax allocation revenue value is 75 percent of any increase, over the tax allocation base value, in the assessed value of real property in an RDA that is placed on the assessment roles after the RDA is created. In calculating the regular property tax allocation revenue value, regular property taxes levied by voters for a specific purpose is not to be included. Tax allocation base value is the assessed value of real property located within an RDA for taxes levied in the year in which the RDA is created for collection in the following year, plus 100 percent of any increase in the assessed value of real property located within an RDA that is placed on the assessment rolls after the RDA is created, less the property tax allocation revenue value. In the second calendar year following the effective date of the ordinance creating the RDA, the county treasurer distributes the receipts from regular taxes on real property in the RDA as follows:

1) Each participating taxing district and the sponsoring local government that created the RDA must receive the portion of its regular property taxes by the rate of tax levied by or for the taxing district on its tax allocation base value or upon the total assessed value of real property in the taxing district, whichever is smaller.
2) The sponsoring local government must receive an additional portion of the regular property taxes levied by it and by or for each participating taxing district upon the property tax allocation revenue value in the RDA. If there is no property tax allocation revenue value, the local government does not receive any additional regular property taxes.

The county assessor must allocate any increase in the assessed real property value occurring in the RDA to the tax allocation base value and the accrued value as appropriate. Revaluations of real property by the assessor for property taxation not made in accordance with the assessor's revaluation plan are not authorized. The apportion-

ment must cease when the property tax allocation revenue value is no longer obligated or necessary to pay the last of the public improvements.

The allocation to the RDA of portions of the local regular property taxes levied by or for each participating taxing district is a public purpose of and benefit to each of those taxing districts. In addition, the allocation of local property tax allocation revenues under LIFT must not affect or be deemed to affect the consistency of any of the taxes levied by or within the participating taxing districts with the uniformity requirement of the Washington Constitution.

Local Excess Excise Taxes. The sponsoring local government that creates an RDA or any participating local government may use annually any excess excise taxes received by it from taxable activity within the RDA to finance the public improvement costs financed in whole or in part by local infrastructure financing. When tax allocation revenues are no longer necessary or obligated to pay the costs of the public improvements, the local government may no longer retain the excess excise taxes. Any participating taxing authority may allocate excess excise taxes to the local government so long as the CERB has approved the local government's imposition of the additional local sales and use tax. The excess excise tax is the amount of excise taxes received by a local government during the measurement year within the RDA over and above the amount of excise taxes received there during the base year from taxable income within the RDA. The base year is the first calendar year following the creation of the RDA and the measurement year is a calendar year, beginning with the calendar year following the base year, that is used annually to measure the amount of excess excise taxes required to be used to finance the public improvement costs. However, if no excise taxes were received in the RDA in the 12 months prior to the creation of the area, then the excess excise taxes are the total amount of excise taxes received in each calendar year after the area is created. If an RDA is created in calendar year 2006 and had activity in the RDA prior to its creation, the amount of local excise taxes received by the sponsoring local government during the measurement year from the taxable activity within the RDA over and above the amount of local excise taxes received by the sponsoring local government during the 2007 base year will be adjusted by the DOR for any estimated impacts from retail sales and use tax sourcing changes that become effective July 1, 2007.

Sales and Use Tax. A sponsoring local government may impose a sales and use tax. The tax is in addition to other taxes authorized and will be collected from those who are taxable by the state retail sales tax and use tax for any taxable event within the jurisdiction. The rate cannot exceed 6.5 percent less the aggregate rates of any other taxes imposed on the same event that are already credited against the state sales and use taxes. The rate of the tax must only be adjusted on the first day of a fiscal year if needed. The DOR must collect the tax on behalf of the sponsoring local government at no cost and remit it to the sponsoring government. The sales and use tax may not be imposed until after July 1, 2008, and approved by the CERB. The local sponsoring jurisdiction must first have received tax allocation revenues derived from both real property taxes or excess excise taxes during the preceding calendar year. If the local government has implemented CRF, the requirement for the receipt of property tax allocations is waived. The proceeds may only be used for the payments of principal and interest on the bonds issued for the public improvements financed through the local infrastructure financing. This tax expires when bonds issued are retired, but not more than 25 years after being imposed. In order to enact a sales and use tax, the local jurisdiction must first enact an ordinance imposing the tax that provides that:

1) the tax must first be imposed on the first day of a fiscal year;
2) the amount of the tax received by the local government in any fiscal year must not exceed the state contribution;
3) the tax must cease to be imposed for the remainder of any fiscal year in which either:
   a) the amount of tax received by the sponsoring local government equals the amount of the state contribution;
   b) the amount of the revenue from taxes imposed under this section by all cities, towns, and counties totals the annual state contribution limit; or
   c) the amount of the tax received by the sponsoring local government equals the amount of the project award by the CERB.
4) the tax will be reimposed at the beginning of the next fiscal year if it ceased to be imposed;
5) neither the local excise tax allocation revenues nor the local property tax allocation revenues may be more than 80 percent of the total local funds used to earn the state contribution;
6) if the tax ceases to be distributed, it will be redistributed at the beginning of the next fiscal year; and
7) any revenue generated by the tax in excess of the amount of the state contribution limit will go to the state.

The CERB, in consultation with the DOR, will approve the amount of the sales and use tax that an applicant may impose. The amount may not exceed the lesser of $1 million or the average amount of tax revenue the applicant estimates it will receive in all fiscal years through the imposition of the sales and use tax. The state contribution limit is $5 million per year. Each year, the amount of taxes approved by the CERB for distribution to a sponsoring local government in the next fiscal year must be the lesser of the amount of the project award in the approval notice or an amount equal to the state con-

tribution. In determining the amount of the state contribution, the CERB will consider the information from the sponsoring local government's annual reports. Local governments must notify the DOR by March 1 the amount of local infrastructure financing dedicated in the previous calendar year to finance the authorized public improvement and the tax allocation revenues derived in the previous calendar year from the regular property taxes on the accrued value and distributed to finance the public improvements. Money must be used only for the purpose of principal and interest payments on bonds issued for a project and must be matched with an amount from local public sources dedicated through December 31 of the previous calendar year to finance the authorized public improvements. Local public sources may include private monetary contributions and tax allocation revenues. The money generated from the sales and use tax must actually be expended to pay public improvement costs or are required by law or an agreement to be used exclusively to pay public improvement costs. The new tax is available to a local jurisdiction as long as the jurisdiction has outstanding indebtedness.

Accountability. The local government utilizing the sales and use tax must provide an annual report to the DOR by March 1 of each year. If the sponsoring local government fails to comply, no tax may be imposed in subsequent fiscal years until such time as the local government complies and the DOR calculates the state contribution rate. The report must include:

1) the amount of tax allocation revenues, sales and use tax and local public sources received by the local government during the preceding calendar year, and how these revenues were expended;
2) the names, and previous business locations, of any business located within the RDA as a result of the public improvements undertaken by the local government and financed in whole or in part by this program;
3) the total number of permanent jobs created as a result of the public improvements undertaken by the local government and financed in whole or in part by this program;
4) the average wages and benefits received by the employees of all businesses locating within the RDA as a result of the public improvements; and
5) the local government is complying with the requirement that the local infrastructure financing proceeds are being used exclusively in the area within the jurisdiction deemed in need of economic development and/or redevelopment.

The DOR must make the report available to the public and the Legislature by June 1 of each year. The report must include a list of the public improvements undertaken by the local governments and financed in whole or in part by community revitalization financing. The report should also include a summary of the information provided by the local governments. The full report by a local government to the DOR must be made available to the public upon request.

Bond Authorization. A local government designating an increment area and authorizing the use of community revitalization financing may incur general indebtedness, and issue general obligation bonds or revenue bonds, to finance the public improvements and retire the indebtedness in whole or in part from tax allocations it receives. Local governments may annually pay into a fund to be established for the benefit of bonds issued for this program a fixed proportion or fixed amount of any tax allocation revenues derived from property or business activity within the increment area containing the public improvements funded by the bonds. The payments continue until all bonds payable from the fund are paid in full. A local government may annually pay into a second fund a fixed proportion or fixed amount of any revenues derived from the credit of the state sales and excise tax, such payment continuing until all bonds from the fund are paid in full. A local government that issues bonds to finance public improvements may pledge for payment of such bonds all or part of any tax allocation revenues derived from the public improvements. It can also pledge the revenues of the credit of the state sales and excise tax. The bonds issued by the local government to finance the public improvements do not constitute an obligation of the state.

Joint Legislative Audit and Review Committee (JLARC) Study. Beginning September 1, 2013, and continuing every five years thereafter, the JLARC must submit a report to the Legislature evaluating the effectiveness of the LIFT program, including a project-by-project review. The report should also include an evaluation of each project's interim results based on the project selection criteria. The report should also measure employment changes, property tax changes, sales and use tax changes, property value changes, and changes in housing and existing commercial activities. The report due in 2028 must also include any recommendations regarding whether or not the LIFT program should be expanded statewide as well as an analysis of what impact, if any, the expansion would have on Washington's economic development.

Office of Financial Management (OFM) Study. The OFM will contract with a consultant to study and report on similar programs in other states, including project selection criteria and governance. The report, with recommendations tailored to Washington's unique needs, is due to the Governor and the Legislature by December 1, 2006.

Miscellaneous. Nothing in the act gives port districts the right to impose a local sales or use tax. The DOR and the CERB must evaluate and report periodically to the Governor and Legislature on the implementation of the LIFT program. The DOR may recommend

such amendments, changes in, and modification of the LIFT program as seem proper. The LIFT program expires June 30, 2039.

Votes on Final Passage:

House 89 7
Senate 41 4 (Senate amended)
House 92 6 (House concurred)

Effective: July 1, 2006

Partial Veto Summary: The Governor vetoed the section directing the Office of Financial Management to contract with a consultant to study and report on similar programs in other states.

VETO MESSAGE ON E2SHB 2673

March 23, 2006

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

Ladies and Gentlemen:

I am returning, without my approval as to Section 702, Engrossed Second Substitute House Bill No. 2673 entitled:

"AN ACT Relating to creating the local infrastructure financing tool demonstration program."

The Office of Financial Management (OFM) is required in Section 702 to conduct a study of governance and selection criteria for the Local Infrastructure Financing Tool (LIFT) program. Section 702 reflects discussions that were underway before the Legislature passed the final version of the bill. In earlier discussions, before the Community Economic Revitalization Board (CERB) was identified as the lead agency, legislators considered having a study of governance issues underway while the projects in the LIFT program's project list were being developed. In the final version of the bill, however, governance and project selection criteria are identified, making the OFM study moot. In addition, the budget does not provide funding for the OFM study and OFM is not the lead agency on the LIFT program.

For these reasons, I have vetoed Section 702 of Engrossed Second Substitute House Bill No. 2673.

With the exception of Section 702, Engrossed Second Substitute House Bill No. 2673 is approved.

Respectfully submitted,

Christine O. Gregoire
Governor

HB 2676
C 32 L 06

Posting interlocal agreements in an electronic format in lieu of filing with the county auditor.

By Representatives Linville, Jarrett, Simpson, Ericksen, Ahern, Dunn and Upthegrove.

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

Background: The Interlocal Cooperation Act grants broad authority to public agencies to engage in joint or cooperative actions. Any two public agencies of this state may enter into agreements with one another to provide public services or perform any government activities as authorized by law. These agreements are referred to as interlocal cooperative agreements, and are often utilized by cities and counties with respect to fire protection, law enforcement, and public utility administration, among other services.

State law requires that interlocal cooperative agreements must be filed with the county auditor.

Summary: As an alternative to filing an interlocal agreement with a county auditor, a public agency may list the agreement by subject on its website or other electronically retrievable public source.

Votes on Final Passage:

House 98 0
Senate 49 0

Effective: June 7, 2006

SHB 2678
C 276 L 06

Reauthorizing the pollution liability insurance agency.

By House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Kagi, Kretz, B. Sullivan and Ericks; by request of Pollution Liability Insurance Agency).

House Committee on Financial Institutions & Insurance
House Committee on Appropriations
Senate Committee on Water, Energy & Environment
Senate Committee on Ways & Means

Background: The Pollution Liability Insurance Agency's (PLIA) mission is to make pollution liability insurance available and affordable to the owners and operators of heating oil tanks and underground storage tanks by offering reinsurance services to the insurance industry. A heating oil tank is a tank for space heating of a home or working space. An underground storage tank is a commercial tank or a combination of tanks used to store an accumulation of petroleum.

The PLIA and its programs do not receive state general funds. Funding comes from two sources: (1) a pollution liability fee imposed on dealers making sales of heating oil to a homeowner or a consumer which is deposited into the Heating Oil Pollution Liability Trust Account (HOPLT Account); and (2) an excise tax on the wholesale value of petroleum which is deposited into the Pollution Liability Insurance Program Trust Account (PLT Account). The excise tax includes a "trigger" mechanism based on the amount of funds in the PLT Account. The tax will only be imposed for a succeeding calendar quarter if: the tax was levied the prior quarter and the account balance is less than $15 million. Most recently, the tax was effective from July 1, 2003, through

June 30, 2004. The entire tax is scheduled to expire on June 1, 2007.

The Director of the PLIA (Director) is required to evaluate the effects of the program on the private market for liability insurance for owners and operators of underground storage tanks. The Director is required to make recommendations to the Legislature concerning continuance of the program.

The programs and the PLIA are scheduled to expire on June 1, 2007.

Summary: The expiration dates for various aspects of the PLIA program are extended until from July 1, 2007, until July 1, 2013. This includes: the PLT Account; the chapter dealing with underground petroleum tank portion of the PLIA program; the chapter dealing with the home heating oil portion of the PLIA program; and the chapter dealing with the tax on petroleum products.

Several individual expiration sections within various chapters of the PLIA program are repealed.

Votes on Final Passage:

House	95	1	
Senate	43	0	(Senate amended)
House	98	0	(House concurred)

Effective: June 7, 2006

ESHB 2680
C 257 L 06

Purchasing service credit in plan 2 and plan 3 of the teachers' retirement system for public education experience performed as a teacher in a public school in another state or with the federal government.

By House Committee on Appropriations (originally sponsored by Representatives Conway, Fromhold, Lovick, Kenney, Quall, Simpson and Moeller; by request of Select Committee on Pension Policy).

House Committee on Appropriations
Senate Committee on Ways & Means

Background: The Teachers' Retirement System Plans 2 and 3 (TRS 2/3) provide retirement benefits to employees certificated by the Superintendent of Public Instruction to teach for educational service or school districts, as well as to state educational service and school district superintendents and assistant superintendents. The TRS 2/3 provides for full retirement benefits at age 65 and early retirement benefits beginning at age 55, following the completion of 10 years of service in TRS Plan 3 and 20 years of service in TRS Plan 2.

A member of TRS Plan 2 eligible for retirement is entitled to a benefit based in part upon the number of years that the member has worked multiplied by 2 percent of his or her final average salary. The employer and the TRS Plan 2 employee each contribute one-half of the cost of the contributions required to fund the 2 percent-formula Plan 2 benefit. A member of TRS Plan 3 eligible for retirement is entitled to a benefit based upon the number of years the member has worked multiplied by 1 percent of his or her final average salary, plus the balance of the member's individual defined contribution account. The employer funds the contributions necessary to fund the 1 percent-formula Plan 3 benefit, and the employee contributes to the individual member account at a rate chosen annually by the employee, but no less than 5 percent of pay.

Members of TRS 2/3 who have teaching experience from another state, and earned retirement service credit in an out-of-state retirement plan, may use the years of service from that state in determining eligibility to retire. However, if the out-of-state service enables a teacher to retire earlier than TRS 2/3 otherwise allows, the retiring teacher's benefit is actuarially reduced to recognize the difference between the age the member retires and the age that they would first be able to retire based on Washington service alone.

Summary: Members of TRS 2/3 may make a one-time purchase of up to seven years of service credit for public education experience outside Washington's retirement systems. The education experience must have been covered by a government retirement plan, and the member must have earned at least five years of service credit in TRS 2/3. In addition, the member must not be receiving, or be eligible to receive, a retirement benefit from the other plan.

The service credit purchased is considered membership service in TRS 2/3, and it thus may be used to qualify the member for retirement or early retirement. The member must pay a cost for the service credit equal to the actuarial value of the increase in value of the member's benefits. A member that purchases out-of-state service credit may not use credit in other state's retirement systems for the purposes of qualifying for retirement in Washington.

A member may pay for all or part of the cost of a service credit purchase with an eligible rollover from an eligible qualified retirement plan. The Department of Retirement Systems is authorized to adopt rules to ensure that all transfers or rollovers used for the purchase of service credit comply with the Internal Revenue Code and regulations adopted by the federal Internal Revenue Service.

Votes on Final Passage:

House	96	0	
Senate	44	0	(Senate amended)
House	98	0	(House concurred)

Effective: January 1, 2007

HB 2681
C 365 L 06

Establishing minimum contribution rates for the public employees' retirement system, the public safety employees' retirement system, the school employees' retirement system, and the teachers' retirement system.

By Representatives Conway, Fromhold, Lovick, Green, Sells, Kenney, Quall, Simpson, Moeller and Morrell; by request of Select Committee on Pension Policy.

House Committee on Appropriations
Senate Committee on Ways & Means

Background: Each year, the Office of the State Actuary conducts an actuarial valuation of each system and plan in the Washington retirement systems. The primary purpose of the actuarial valuation is to determine the required contribution rates that each plan and system require, but the valuations also provide detailed analysis of member and retiree demographics and of changes in benefit obligations and fund values.

The choice of an actuarial funding method determines the way pension contributions will be allocated across members' working careers. The portion of the present value of a pension that is allocated to a particular period of a member's career, most typically an annual period, is referred to in actuarial practice as the "normal cost." The total cost of a pension is determined by the benefits paid out less the returns on investment of fund assets. All standard actuarial funding methods are designed to completely fund a member's retirement benefit before retirement, though they may allocate different portions of the total cost to different periods of a member's career.

The current actuarial funding method used for Plans 2 and 3 of the Public Employees' Retirement System (PERS), the Teachers' Retirement System (TRS), and the School Employees' Retirement System (SERS) is the aggregate funding method. Under the aggregate method, normal or annual costs are equal to the difference between the present value of all future benefits to be paid out less current assets. This difference (the cost) is spread as a level percentage of members' future pay.

The "entry age normal cost method" is another standard actuarial funding method that determines the cost of funding an individual member's benefit from the time of entry into the system, calculated to be a level percentage of pay throughout a member's career. This method may be used to determine the cost of a plan's benefit structure, regardless of the amount of assets in the plan prior to a member's entry.

The current funding method used for PERS and TRS Plan 1 is tailored to address amortization of the unfunded accrued actuarial liabilities (UAAL) of the Plans 1 by June 30, 2024, and to spread the cost of repaying the unfunded liabilities to all employers of members of PERS, TRS, SERS, and, after July 1, 2006, the Public Safety Employees' Retirement System. The Legislature suspended contributions towards amortizing the Plans 1 UAAL during the 2003-05 and 2005-07 fiscal biennia. These suspensions resulted in an increase in the actuarially-required contribution rates necessary to fully amortize the UAAL over the remaining years until June 30, 2024.

Pension fund assets are valued on an actuarial basis, rather than a market value basis, to reduce the instability in contribution rates year-to-year. The 2003 Legislature enacted a new method of averaging, or smoothing, gains or losses over a period of time that varies up to eight years. The length of time over which a given year's gains or losses are smoothed is dependent on the amount of variation of a year's investment return from the long-term rate. Prior to 2003, the actuarial value of assets was required to recognize changes to asset values that vary from the long-term investment rate of return assumption over a four year period. The assumed long-term investment rate of return is 8 percent per year.

Over periods in which the return on assets consistently either fails to meet or exceeds the expected rates, the actuarial value of assets could produce contribution rates that are either significantly above or below the long-term cost of the retirement plans. During the 1990's, investment returns substantially in excess of expected rates of return and adjustments to assumptions about future rates of return caused the actuarial valuations to indicate contribution rates significantly below the long-term expected rates. Contribution rates rose significantly between the 2003-05 fiscal biennia and the 2005-07 fiscal biennia, and current projections by the State Actuary indicate further substantial increases towards the long-term expected rates during the next two fiscal biennia.

Summary: Minimum employer contribution rates are established for amortizing the UAAL beginning July 1, 2009, for PERS Plan 1 at 2.68 percent and, beginning September 1, 2009 for TRS Plan 1 at 4.71 percent. These minimum contribution rates remain in effect until the actuarial value of assets in either PERS Plan 1 or TRS Plan 1 equals 125 percent of actuarial liabilities or June 30, 2024, whichever comes first.

A process for determining minimum contribution rates for employers and employees in PERS, TRS, and SERS Plans 2 and 3 is established. The contribution rate for the normal cost portion of these Plans 2 and 3 is set at 80 percent of employer or employee normal cost calculated under the entry age normal cost method.

Upon completion of each biennial actuarial valuation, the State Actuary must review the appropriateness of the minimum contribution rates and recommend changes to the Legislature, if needed.

The term "normal cost" is defined as the portion of the cost of benefits allocated to a period of time under the actuarial method, typically twelve months.

Votes on Final Passage:

House	97	0
Senate	45	0

Effective: July 1, 2009

SHB 2684
C 33 L 06

Allowing vesting after five years of service in the defined benefit portion of the public employees' retirement system, the school employees' retirement system, and the teachers' retirement system plan 3.

By House Committee on Appropriations (originally sponsored by Representatives Fromhold, Bailey, Conway, Lovick, Green, Sells, Kenney, Quall, Simpson, Moeller and Morrell; by request of Select Committee on Pension Policy).

House Committee on Appropriations
Senate Committee on Ways & Means

Background: A member of Washington's public retirement systems must complete specific amounts of qualified employment before he or she is entitled to a pension benefit. This period of service requirement is called "vesting."

In the Public Employees' Retirement System (PERS) Plans 1 and 2, the School Employees' Retirement System (SERS) Plan 2, and the Teachers' Retirement System (TRS) Plans 1 and 2, the vesting period for employees is five years. After five years of service in Plan 1 or Plan 2, members' defined benefits are based in part upon the number of qualified years of service they have worked multiplied by 2 percent of their final average salaries. The method of calculating final average salary varies by plan.

The Plans 3 are a "hybrid" plan design in which employer contributions are made to support a defined benefit, and employee contributions are made into individual defined contribution accounts.

In PERS 3, SERS 3, and TRS 3, the vesting period in the defined benefit portion of employees' benefits is 10 years, or five years including one year after age 54. After 10 years of service, a Plan 3 member's defined benefit is based upon the number of qualified years of service he or she has worked multiplied by 1 percent of average final salary. Plan 3 members vest immediately in the defined contribution portion of their benefits.

Members who were already vested in Plan 2 when they transferred to PERS 3, SERS 3, or TRS 3 remain vested members.

Summary: The vesting requirement for members of PERS, SERS, and TRS Plans 3 is reduced from 10 years or five years with one year after age 54 to five years of service with one year after age 44.

Votes on Final Passage:

House	97	0
Senate	45	0

Effective: June 7, 2006

ESHB 2685
C 309 L 06

Making changes to general provisions in the public safety employees' retirement system.

By House Committee on Appropriations (originally sponsored by Representatives Fromhold, Conway, Lovick, Quall, Simpson, Ormsby and Moeller; by request of Select Committee on Pension Policy).

House Committee on Appropriations
Senate Committee on Ways & Means

Background: The Public Safety Employees' Retirement System (PSERS) was created in 2004. The PSERS will open to members on July 1, 2006, and will provide retirement benefits for state and local government employees who work in positions with law enforcement duties but are not eligible for membership in the Law Enforcement Officers' and Fire Fighters' Retirement System.

Members of the PSERS with at least 20 years of service will be eligible for full retirement benefits from age 60, five years earlier than the regular retirement age in PERS Plans 2 and 3. Early retirement in the PSERS is also available earlier and with reduced penalties. The PSERS members with 20 years of service may retire from age 53 with a 3 percent reduction in benefits per year of early retirement rather than a full actuarial reduction.

Membership in the PSERS is restricted by an individual's employer and by specific job classes in effect as of January 1, 2004. The PSERS employers are defined as including the Department of Corrections, the Parks and Recreation Commission, the Gambling Commission, the State Patrol, the Liquor Control Board, county corrections departments, and the corrections departments of municipalities not classified as First Class cities. Eligible job classes include Park Ranger, Liquor Enforcement Officer, Gambling Special Agent, Commercial Vehicle Enforcement Officer, and a range of correctional positions.

New employees hired into eligible positions after July 1, 2006, will be enrolled in the PSERS immediately. Current employees who are in the PSERS eligible positions and are now enrolled in Plans 2 or 3 of the Public Employees' Retirement System (PERS 2 or 3) will be given the option to transfer into PSERS on July 1, 2006, on a prospective basis. Members choosing to transfer into PSERS from PERS will become dual members and will be eligible to receive benefits from each plan under

the state's portability laws. Members of PERS Plan 1, who are able to retire at any age with 30 years of service, are not eligible to transfer to PSERS.

Limited authority Washington Peace Officers are full-time, fully-compensated officers of limited authority law enforcement agencies. These officers are empowered to enforce the laws within the limited subject areas for which the agency is responsible. Limited authority law enforcement agencies include the departments of Natural Resources, Social and Health Services, and Corrections, the Gambling Commission, the Lottery Commission, the Parks and Recreation Commission, the Utilities and Transportation Commission, and the Liquor Control Board.

Summary: The list of job classes in the statutes governing eligibility requirements for the Public Safety Employees' Retirement System (PSERS) is replaced with a duty-based set of membership criteria. To be eligible for membership, employees must work full-time and hold a position: that requires completion of a certified criminal justice training course and which has the authority to arrest, investigate crimes, enforce the law, and carry a firearm; in which the primary duty is to ensure the custody and security of incarcerated individuals as a probation officer, corrections officer or jailer; that is a limited authority Washington Peace Officer; or in which the primary responsibility is to supervise employees who are eligible for membership under one of the previously listed membership criteria.

References to the PSERS system are added to provisions related to joining a second retirement plan, and to the retirement systems for which retirement benefits paid to beneficiaries of members who die in the line of duty are paid consistent with the federal Fallen Hero Survivor Benefits Fairness Act exempting them from federal income tax. Issues relating to PSERS employees are added to the responsibilities of the Select Committee on Pension Policy's public safety subcommittee.

Votes on Final Passage:

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

Effective: March 29, 2006

SHB 2688

PARTIAL VETO

C 350 L 06

Addressing the law enforcement officers' and fire fighters' retirement system plan 1.

By House Committee on Appropriations (originally sponsored by Representatives Fromhold, Conway, Lovick, Kenney, Quall, Simpson, Ormsby, Moeller and Ericks; by request of Select Committee on Pension Policy).

House Committee on Appropriations
Senate Committee on Ways & Means

Background: The Law Enforcement Officers' and Fire Fighters' Retirement System, Plan 1 (LEOFF 1) provides retirement and disability benefits to law enforcement officers and fire fighters who entered eligible employment between 1969 and 1977. Since 1977, eligible law enforcement officers and fire fighters have entered LEOFF 2.

In 1974, the Legislature capped retirement allowances of new members of LEOFF 1 at 60 percent of final average salary, except as retirement allowances might increase after retirement by the annual Consumer Price Index cost of living adjustment. The result was that for the members who joined LEOFF 1 between the institution of the cap on February 19, 1974, and the closing of the plan in 1977, a LEOFF 1 member's retirement allowance would initially be based on no more than 30 years of service credit.

Prior to 1974, 30 years of service caps were placed in the Public Employees' Retirement System, Plan 1, and the Teachers' Retirement System, Plan 1. Final average salary is defined in LEOFF 1 as (1) the basic salary earned by a member attached to the same position for 12 months before retirement, or (2) the highest consecutive 24-months of basic salary for a member not in the same position for 12 months prior to retirement.

To date, members of LEOFF 1 have not been affected by the 60 percent cap. The cap was put in place during 1974 for members newly entering LEOFF 1, and about 32 years have elapsed since. Also, relatively few members of LEOFF 1 have retired at the older ages typically associated with members who have more than 30 years of service. For example, between 1995 and 2000, the period of the last Actuarial Experience Study, only 211 members retired from LEOFF 1 after age 55 and only 41 retired after age 60.

Rather than retirement, most LEOFF 1 members have left active service with a disability allowance equal to 50 percent of pay, not subject to federal income tax. During the 1995-2000 period, 984 members began disability allowances, nearly 82 percent of all the members beginning either a disability or retirement allowance. As LEOFF 1 was closed to new members in 1977, the num-

ber of active plan participants has gradually declined. In the Washington State Actuarial Valuation Report 2002, the Office of the State Actuary reported 1,147 LEOFF 1 active and 7,987 retired members at the end of 2002. About 568 of these active members were first hired after the 60 percent cap came into effect.

The LEOFF statutes also provide that LEOFF Plan 1 employers must pay for medical services incurred by retired members. Even though the medical coverage is a benefit created by the LEOFF statutes, it is paid directly by employers and not from the LEOFF Plan 1 fund. The minimum medical services provided by statute include confinement in a nursing home or hospital extended care facility. In 2001, the State Actuary completed a statutorily-mandated study of LEOFF 1 medical benefits and found that present value of local government liability for LEOFF 1 medical benefits was between $700 and $800 million.

Summary: The LEOFF 1 60 percent of final average salary cap on retirement allowances is removed.

The Governor must establish a seven member joint executive task force to study funding postretirement medical benefits for LEOFF 1. The membership consists of: the Director of the Department of Retirement Systems; the Administrator of the Health Care Authority; the State Actuary; one representative of Washington cities, one representative of Washington counties, and one active and one retired member of LEOFF 1, each appointed by the Governor. The intent of the task force is to create a funding mechanism to assist employers in providing postretirement medical benefits to LEOFF 1 members. The task force must make recommendations for proposed legislation to the appropriate committees of the Legislature by September 1, 2006, and submit a final report no later than December 1, 2006. The task force expires December 1, 2006.

Votes on Final Passage:

House	78	19	
Senate	34	6	(Senate amended)
House	75	23	(House concurred)

Effective: July 1, 2006

Partial Veto Summary: The veto eliminates the Joint Executive Task Force on Funding Postretirement Medical Benefits for members of LEOFF plan 1.

VETO MESSAGE ON SHB 2688

March 30, 2006

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

Ladies and Gentlemen:

I am returning, without my approval as to Section 2, Substitute House Bill No. 2688 entitled:

"AN ACT Relating to the law enforcement officers' and fire fighters' retirement system plan 1."

Local governments face challenges in providing health care benefits for retired members of the Law Enforcement Officers' and Firefighters' Retirement System Plan 1 (LEOFF 1). The cost of these benefits can be significant, especially for smaller jurisdictions. It is sensible for the state to assist local governments in their search for ways to address this obligation in the most efficient way possible. However, a thorough and careful review of options will take longer than provided in the bill, and will need to include a broader range of possibilities. The bill also charges a task force to study the use of excess pension assets to provide health care coverage. Notwithstanding potential legal barriers to this use of pension assets, the current financial situation of the LEOFF 1 pension plan clearly does not support this option.

While I am vetoing Section 2, I am directing the Department of Retirement Systems and the Health Care Authority to lay the groundwork for study of this issue, and to consult plan members and representatives of local governments in their work.

For these reasons, I have vetoed Section 2 Substitute House Bill No. 2688

With the exception of Section 2, Substitute House Bill No. 2688 is approved.

Respectfully submitted,

Christine O. Gregoire
Governor

HB 2690
C 214 L 06

Permitting members of the public employees' retirement system, the teachers' retirement system, the school employees' retirement system, the public safety employees' retirement system, plan 1 of the law enforcement officers' and fire fighters' retirement system, and the Washington state patrol retirement system to make a one-time purchase of additional service credit.

By Representatives Crouse, Conway, Lovick, Hunt, Green, Sells, Quall, Simpson, Moeller and Morrell; by request of Select Committee on Pension Policy.

House Committee on Appropriations
Senate Committee on Ways & Means

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

Beginning at age 55, a member of TRS 2 may apply for early retirement after 20 years of credited service. Beginning at age 55, a member of TRS 3 may apply for early retirement after 10 years of credited service. If a member in TRS 2/3 applies for early retirement with fewer than 30 years of service, his or her benefit is actuarially reduced for the difference between the member's age difference at retirement and age 65. This actuarial reduction typically averages about 8 percent per year. A

member who applies for early retirement with 30 or more years of service has his or her benefit reduced instead by 3 percent per year.

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

In recent years, changes in federal law have liberalized the rules on the transfer of funds between tax-deferred accounts, including government defined benefit pension plans like the TRS 2/3 and deferred compensation accounts such as 457, 403(b), and 401(k) plans. Many state and local government pension plans have subsequently provided the opportunity for members to transfer funds, including funds from tax-deferred accounts, into these plans to add up to five years of service credit to a member's defined benefit.

Legislation enacted in 2004 provided the opportunity for members of the Public Employees' Retirement System (PERS) and the School Employees' Retirement Systems (SERS) Plans 2 and 3 to purchase up to five years of additional service credit at the time of early retirement. The cost of the additional service credit is the actuarially equivalent value of the resulting increase in the members' benefit. In 2005, legislation was enacted to provide the same opportunity to members of the TRS Plans 2 and 3.

Summary: Members of the Teachers', School Employees', and Public Employees' Plans 1, 2 and 3, the Public Safety Employees' Retirement System Plan 2, the Law Enforcement Officers' and Fire Fighters' Plan 1, and the Washington State Patrol Retirement System may purchase up to five years of service credit at time of normal or early retirement. The service credit purchased is not regular membership service and may not be used for purposes such as qualifying for improved early retirement benefits, such as the 3 percent per year reduction available to members of the PERS, TRS, and SERS Plans 2 and 3 with 30 years of service.

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

The laws permitting the purchase of service credit only upon early retirement in PERS, TRS, and SERS Plans 2 and 3 are repealed.

Votes on Final Passage:

House	97	0
Senate	39	0

Effective: July 1, 2006

SHB 2691
C 189 L 06

Creating optional public retirement benefits for justices and judges.

By House Committee on Appropriations (originally sponsored by Representatives Crouse, Fromhold, Conway, Lovick, Bailey, Kenney and Quall; by request of Select Committee on Pension Policy).

House Committee on Appropriations
Senate Committee on Ways & Means

Background: Since July 1, 1988, newly elected or appointed judges and justices have become members of the Public Employees' Retirement System (PERS) Plan 2. Since March 1, 2002, judges and justices without previously established PERS membership have had the choice to enter PERS Plan 2 or Plan 3.

The PERS Plan 2 provides members with an unreduced benefit of 2 percent of average final compensation for each year of service credit earned at age 65. The PERS Plan 3 provides members with an unreduced benefit of 1 percent per year of service credit earned at age 65, plus an individual member account of accumulated employee contributions plus investment earnings. A member of PERS Plan 2 or 3 may include any number of years of service towards the 2 percent or 1 percent formula in calculating their retirement benefit.

State-employed justices and judges, including those on the Washington Supreme Court, Courts of Appeals, and Superior Courts, also participate in a supplemental defined contribution program called the Judicial Retirement Account (JRA). The JRA was established in 1988, and members and employers each contribute 2.5 percent of pay to an individual member account. Distribution of the JRA is available to the member upon retirement as a lump-sum or in other payment forms as made available by the administering agency, the Administrator of the Courts.

Between 1937 and 1971, judges participated in the Judges' Retirement Plan and, between 1971 and 1988, the Judicial Retirement System. Both plans offered a benefit capped at 75 percent of pay that could be accrued after approximately 21.5 years of service. Both systems

are funded on a pay-as-you go basis, with member contributions between 6.5 percent and 7.5 percent of pay and state contributions averaging in excess of 40 percent of pay. Judges who established membership in PERS Plan 1 prior to October 1, 1977, and who became judges after the closure of the Judicial Retirement System in 1988 remain members of PERS Plan 1.

There are about 210 justices and judges at the Supreme Court, the Courts of Appeals, and the Superior Courts. In addition, there are about 230 District and Municipal Court judges. Superior Court judges, on average, become members of PERS at about 40 years of age although some may first become PERS members in positions other than as judges. The average Superior Court judge retired in 2004 with a benefit from PERS Plan 2 of $4,751 per month, based on a salary of $9,502 per month and 25 years of service, and an accumulation in his or her JRA account of about $277,000.

Summary: Additional Benefits. A justice or judge of the Supreme Court, Courts of Appeals, or Superior Courts participating in PERS and the JRA prior to January 1, 2007, may elect to discontinue future employee and employer contributions into the JRA and earn a total 3.5 percent of average final compensation per year defined benefit, if a member of the Teachers' Retirement System (TRS) Plan 1 or PERS Plan 1 or Plan 2, and a total 1.6 percent defined benefit if a member of PERS Plan 3.

For members of TRS serving as justices or judges of the Supreme Court, Courts of Appeals, or Superior Courts, the member contribution rate is 12.26 percent of pay. The employer contribution rate to TRS is unchanged.

The employee contribution rate to PERS for judges of District and Municipal Courts for members of PERS Plan 2 is 250 percent of the general PERS Plan 2 member contribution rate, and for members of PERS Plan 1 the member contribution rate is 12.26 percent of pay. The employer contribution rate to PERS for judges of District and Municipal Courts is unchanged.

A justice or judge participating in the 3.5 percent multiplier provisions provided for TRS Plan 1 and PERS Plan 1 or 2 may not accrue a benefit, in combination with benefits accrued prior to January 1, 2007, in excess of 75 percent of average final compensation. A justice or judge participating in the 1.6 percent of average final compensation provisions provided for members of PERS Plan 3 may not accrue a benefit, in combination with benefits accrued prior to January 1, 2007, in excess of 37.5 percent of average final compensation.

Contribution Rates. The employer contribution rate to PERS for justices and judges of the Supreme Court, Courts of Appeals, or Superior Courts is the established PERS employer contribution rate for general members, plus 2.5 percent of pay. The employee contribution rate to PERS for justices and judges of the Supreme Court, Courts of Appeals, or Superior Courts for members of PERS Plan 2 is 250 percent of the general PERS Plan 2 member contribution rate, less 2.5 percent of pay, and for members of PERS Plan 1 9.76 percent of pay.

For members of TRS serving as justices or judges of the Supreme Court, Courts of Appeals, or Superior Courts, the member contribution rate is 12.26 percent of pay.

The employer contribution rate to PERS for judges of District and Municipal Courts is the established PERS employer contribution rate for general members. The employee contribution rate to PERS for judges of District and Municipal Courts for members of PERS Plan 2 is 250 percent of the general PERS Plan 2 member contribution rate and for members of PERS Plan 1 12.26 percent of pay.

Votes on Final Passage:

House	96	1
Senate	43	0

Effective: January 1, 2007

SHB 2695

C 208 L 06

Modifying absentee or provisional ballot notice requirements.

By House Committee on State Government Operations & Accountability (originally sponsored by Representatives Haigh, Sump and McDermott).

House Committee on State Government Operations & Accountability

Senate Committee on Government Operations & Elections

Background: If a voter neglects to sign the absentee or provisional ballot envelope, the county auditor must notify the voter by telephone of the procedure for completing the unsigned affidavit. If the auditor is not able to personally talk with the voter by telephone, the voter must be contacted by first class mail. A voice mail message is not considered to be personally contacting the voter. In order for the ballot to be counted, the voter must appear in person and sign the envelope or sign and return a copy of the envelope provided by the auditor. If the handwriting on the absentee or provisional ballot envelope does not match the signature on file, the auditor must follow the same procedures to contact the voter. In order for the ballot to be counted the voter must appear in person and sign a new registration form no later than the day before the certification of the election, or sign and return a copy of the affidavit provided by the auditor. If the signature on the copy of the affidavit does not match the signature on file, the voter must appear in person and sign a new registration form no later than the day before certification of the election.

Summary: The county auditor must notify a voter by first class mail in the event that the voter fails to sign the outside envelope of the absentee or provisional ballot or if the voter's signature does not match the signature on file in the voter registration file. If the voter has not responded to a mail notification, or if a ballot needing correction is received within three business days of the final meeting of the canvassing board, the voter must be contacted by phone and advised of the procedure to correct the ballot.

To correct a mismatched signature, a voter may sign and return a copy of the affidavit provided by the auditor, along with a copy of a government or tribal issued identification. If the signature on the affidavit does not match the signature on file or the signature on the identification, the voter must appear in person and sign a new registration form.

Votes on Final Passage:

House	97	0	
Senate	35	14	(Senate amended)
House			(House refused to concur)
Senate			(Senate receded)
Senate	40	9	(Senate amended)
House	55	43	(House concurred)

Effective: June 7, 2006

HB 2704
C 277 L 06

Including organized retail theft in crime guidelines.

By Representatives O'Brien, Pearson, Darneille, Kirby, Ahern, Williams, Strow, Kilmer, Green, Sells and Morrell.

House Committee on Criminal Justice & Corrections
Senate Committee on Judiciary
Senate Committee on Labor, Commerce, Research & Development

Background: I. Theft-Related Crimes. *Theft.* A person commits theft if he or she:

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

A person is guilty of theft in the first degree if the value of the property exceeds $1,500 or is taken from the person of the victim. Theft in the first degree is a class B felony with a seriousness level of II.

A person is guilty of theft in the second degree if: (1) the value of the property exceeds $250 and is less than $1,500; (2) the property is a public record, writing, or instrument kept, filed, or deposited according to law or with or in the keeping of any public office or public service; (3) the property is an access device; or (4) the property is a motor vehicle valued less than $1,500. Theft in the second degree is a class C felony with a seriousness level of I.

A person is guilty of theft in the third degree if the value of the property is less than $250 or includes more than 10 merchandise pallets or beverage crates. Theft in the third degree is a gross misdemeanor.

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

A person commits possession of stolen property in the first degree if the value of the property exceeds $1,500. Possession of stolen property in the first degree is a class B felony with a seriousness level of II.

A person commits possession of stolen property in the second degree if: (1) the value of the property exceeds $250 and is less than $1,500; (2) the property is a public record, writing, or instrument kept, filed, or deposited according to law; (3) the property is an access device; or (4) the property is a motor vehicle valued less than $1,500. Possession of stolen property in the second degree is a class C felony with a seriousness level of I.

A person commits possession of stolen property in the third degree if the value of the property is less than $250 or includes more than 10 merchandise pallets or beverage crates. Possession of stolen property in the third degree is a gross misdemeanor.

II. Aggregation. When determining the value of the property involved, the value of separate third degree thefts may be aggregated if they are all part of a criminal episode or a common scheme or plan.

III. Criminal Profiteering. The Criminal Profiteering Act (CPA) prohibits acts and patterns of criminal activity that constitute organized crime and criminal profiteering. The CPA defines criminal profiteering as the commission of certain enumerated crimes for financial gain. Persons can be subject to civil penalties for engaging in a pattern of criminal profiteering, including fines, injunctive relief, and civil forfeiture.

Summary: I. Theft-Related Crimes. Three new theft-related crimes are established: theft with the intent to resell, organized retail theft, and retail theft with extenuating circumstances.

Theft with the Intent to Resell. A person commits theft with the intent to resell if he or she commits theft of property with a value of at least $250 with the intent to resell the property for monetary or other gain. The person commits theft with the intent to resell in the first degree if the property has a value of $1,500 or more. Theft with the intent to resell in the first degree is a class B felony with a seriousness level of III. The person commits theft with the intent to resell in the second

degree if the property has a value of at least $250, but less than $1,500. Theft with the intent to resell in the second degree is a class C felony with a seriousness level of II.

Organized Retail Theft. A person commits organized retail theft if he or she commits theft or possession of stolen property with an accomplice and the property has a value of at least $250. The person commits organized retail theft in the first degree if the property has a value of $1,500 or more. Organized retail theft in the first degree is a class B felony with a seriousness level of III. The person commits organized retail theft in the second degree if the property has a value of at least $250, but less than $1,500. Organized retail theft in the second degree is a class C felony with a seriousness level of II.

Retail Theft with Extenuating Circumstances. A person is guilty of retail theft with extenuating circumstances if he or she commits theft of property from a mercantile establishment and one of the following extenuating circumstances exists:

- the person leaves through an emergency exit to facilitate the theft;
- the person is in possession of an item designed to overcome security systems such as a lined bag or a tag remover; or
- the person committed theft at three or more separate and distinct mercantile establishments within a 180-day period.

The person is guilty of retail theft with extenuating circumstances in the first degree if the theft involved constitutes theft in the first degree. Retail theft with extenuating circumstances in the first degree is a class B felony with a seriousness level of III. The person is guilty of retail theft with extenuating circumstances in the second degree if the theft involved constitutes theft in the second degree. Retail theft with extenuating circumstances in the second degree is a class C felony with a seriousness level of II. The person is guilty of retail theft with extenuating circumstances in the third degree if the theft involved constitutes theft in the third degree. Retail theft with extenuating circumstances in the third degree is an unranked class C felony.

II. Aggregation. For purposes of determining the value of the property involved for theft with the intent to resell and organized retail theft, a series of thefts may be aggregated to determine the degree of the crime if they were committed by the same person from one or more mercantile establishments over a 180-day period. For purposes of theft, theft with the intent to resell, and organized retail theft, thefts committed by the same person in different counties that have been aggregated may be prosecuted in any county in which one of the thefts occurred.

III. Criminal Profiteering. Theft with the intent to resell and organized retail theft are added to the definition of "criminal profiteering" under the CPA.

Votes on Final Passage:

House 95 0
Senate 47 0

Effective: June 7, 2006

SHB 2713
C 215 L 06

Clarifying that state and local governing bodies may support or oppose ballot propositions.

By House Committee on State Government Operations & Accountability (originally sponsored by Representatives Simpson, Woods and Hunt).

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

Background: Local public officials and employees must comply with ethics laws that pertain to prohibiting the use of public office or agency facilities in campaigns. These laws are enforced by the Public Disclosure Commission (PDC). State public officials and employees must comply with the ethics laws that pertain to the use of public resources for political campaigns, which are enforced by the Legislative Ethics Board for the legislative branch, and by the Executive Ethics Board for the executive branch.

Both statutes prohibit public officials and employees from using or authorizing the use of public facilities to assist a candidate or ballot proposition campaign. These statutes allow:

- action taken at an open public meeting by members of an elected legislative body to express a collective decision, to actually vote on a motion, proposal or ordinance, or to support or oppose a ballot proposition. Notice of the meeting must include the title and number of the ballot proposition, and members of the public and the legislative body must be allowed equal opportunity to express opposing views;
- a statement by an elected official supporting or opposing a ballot proposition made at an open press conference or made in response to an inquiry; and
- activities that are part of the "normal and regular conduct" of the office or agency.

In 2005, an Attorney General Opinion (AGO) was issued pertaining to the definition of "elected legislative bodies." The AGO concluded that an "elected legislative body" consists of bodies whose members are directly elected to that body by voters. Entities not included in this definition are:

- appointed or elected board members;
- elected officials in specific jurisdictions; and
- informal groups of elected officials.

Summary: The campaign financing law pertaining to forbidding the use of public office or agency facilities in campaigns is modified to allow members of an elected board, council, or commission of a special purpose district to take action at an open public meeting to support or oppose a ballot measure. Special purpose districts include but are not limited to:

- fire districts;
- public hospital districts;
- library districts;
- park districts;
- port districts;
- public utility districts;
- school districts;
- sewer districts; and
- water districts.

Votes on Final Passage:

House 66 30
Senate 27 20

Effective: June 7, 2006

SHB 2715
C 76 L 06

Regarding the state interoperability executive committee.

By House Committee on Technology, Energy & Communications (originally sponsored by Representatives Ericks, Anderson, Morris, Haler, Crouse, Hankins, Nixon, Sump, P. Sullivan, Hudgins, Kilmer, Takko, Green, Sells, Clibborn, Simpson, Springer, Roberts, Ormsby, Morrell and McIntire).

House Committee on Technology, Energy & Communications
Senate Committee on Government Operations & Elections

Background: In 2003, the Washington State Information Services Board established the State Interoperability Executive Committee (Committee) to take inventory of and evaluate all state and local government-owned public safety communications systems and to prepare a statewide public safety communications plan. The plan was to set forth recommendations for executive and legislative action to ensure that public safety communications systems can communicate with one another and conform to federal law and regulations governing emergency communication systems and spectrum allocation. The plan was to include specific goals for improving interoperability of public safety communications systems and identifiable benchmarks for achieving those goals.

In December of 2004, the Committee submitted its final report to the Legislature. In its report, the Committee found that the majority of public safety responders are not able to communicate effectively or directly with their federal, state, regional, local, or tribal counterparts. The Committee also found there is a lack of financial resources to support a vision of interoperability within the state.

In November of 2005, the Committee completed its Technical Implementation Plan (TIP). The TIP provides a high-level approach for planning the transition of the current agency-based public safety radio systems to a standards-based, frequency-independent, multiple subsystems technology architecture. A key component of the TIP is moving toward a statewide, Project 25 (P-25) technology. The P-25 is a communications interoperability standard supported and used by the federal government, numerous state governments, and by the communications industry. Many federal funding opportunities for advanced communications systems indicate a preference for P-25 compliant equipment.

After adopting the TIP, the Committee adopted a requirement that when state agencies purchase new communications equipment, it must be P-25 compatible.

Summary: New responsibilities are outlined for the Committee. The Committee is charged with coordinating the purchasing of all state wireless radio communications system equipment to ensure that, at a minimum: (1) any new trunked standard, after the transition from a radio over internet protocol network, is P-25; (2) any new system that requires advanced digital features is P-25; and (3) any new system or equipment purchases are upgradeable to P-25 standards.

Votes on Final Passage:

House 93 2
Senate 42 0

Effective: June 7, 2006

EHB 2716
C 258 L 06

Modifying provisions relating to nursing facility medicaid payment systems.

By Representatives Fromhold, Kessler, Skinner, Haigh, Strow, Moeller, Armstrong, Conway, Curtis, Murray, Buri, Green, Ericksen, Serben, McDermott, Morrell, McIntire, Appleton, Kenney, P. Sullivan, Ormsby and Linville.

Senate Committee on Ways & Means

Background: There are about 240 Medicaid-certified nursing home facilities in Washington providing long-term care services to approximately 12,000 Medicaid clients. The payment system for these nursing homes is established in statute and is administered by the Department of Social and Health Services (DSHS).

The rates paid to nursing facilities are based on seven different cost components. These components

include rates paid for direct care, therapy care, support services, operations, property, financing allowance, and variable return.

The direct care rate component includes payments for the wages and benefits of nursing staff, non-prescription medications, and medical supplies. This rate component is most directly related to patient care and comprises roughly 55 percent of the total nursing facility rate. The direct care rate component is based upon case mix, or the relative care needs of the residents that it serves. The higher the care needs of the clients, the higher the direct care rate. Facilities whose direct care costs are below 90 percent of median costs are raised to 90 percent of the median (corridor floor), and those facilities whose costs are above 110 percent of the median are paid at the 110 percent corridor (corridor ceiling).

Two other components relate to patient care. The therapy care rate component includes payments for physical therapy, occupational therapy, and speech therapy, and the support services rate component includes payments for food, food preparation, laundry, and other housekeeping needs.

The operations rate component pays for administrative costs, office supplies, utilities, accounting costs, minor building maintenance, and equipment repairs.

The property and financing allowance rate components relate to the capital cost of a nursing facility. The property rate is a payment made to reflect the depreciation of a facility and other capital assets. Property depreciation periods vary, with most new facilities depreciating over 40 years. The financing allowance is paid and calculated by multiplying an interest rate by the value of the assets. The applicable interest rate is 10 percent for construction proposed prior to May 17, 1999, and 8.5 percent for construction proposed after that date.

The variable return rate component does not reimburse nursing facilities for a specific cost. Rather, nursing facilities that serve residents at the lowest cost per resident day receive an efficiency incentive of 1 to 4 percent of the total direct care, therapy care, support services, and operations rate components based on that facility's relative efficiency when measured in comparison with the same costs in other facilities throughout the state.

The property and financing allowance components of nursing facility rates are rebased annually to reflect actual costs. All other rate components have been rebased at periodic intervals specified in statute. The last full rebasing of nursing facility payment rates occurred on July 1, 2001, when rates were recalculated to reflect calendar year 1999 costs. During the years between rebasings, rates have been adjusted for economic trends and conditions (i.e., vendor rate increases) as specified in the biennial appropriations act.

A minimum occupancy standard is applied to nursing facility payments. If resident days are below the minimum occupancy standard, they are adjusted to the imputed occupancy level, thereby reducing per resident day costs and component rate allocations based on such costs. If the actual occupancy level is higher than the minimum occupancy standard, the actual number of resident days is used. The minimum occupancy standard is set at 85 percent for direct care, therapy care, support services, and variable return component rates and at 90 percent for operations, financing allowance, and property component rates. However, the minimum occupancy standard is set at 85 percent for all component rates if a nursing facility is the only facility within a forty minute commute.

Summary: The nursing facility Medicaid payment system is modified by rebasing direct care and operations component rate allocations based upon calendar year 2003 cost reports.

The method of calculating the direct care rate component is modified. Minimum occupancy standards for direct care component rate allocations are removed. In addition, the direct care case-mix corridor is modified by eliminating the corridor floor and increasing the corridor ceiling to 112 percent of the peer group median.

Effective July 1, 2006, variable return component rate allocations will be set to each facility's June 30, 2006, variable return component allocation.

Vital local providers are defined as those nursing facilities that have a home office in the state and have a sum of Medicaid days for all Washington facilities that was greater than 215,000 in 2003. Vital local providers will receive the greater of either their June 30, 2006, direct care and operations component rate allocations or the rate allocations which they would qualify for under the standard payment system.

A number of clarifying technical changes are specified.

Votes on Final Passage:

House	97	0
Senate	47	0

Effective: July 1, 2006

SHB 2723
C 77 L 06

Changing the seller's real estate disclosure of proximity to farming.

By House Committee on Economic Development, Agriculture & Trade (originally sponsored by Representatives Tom, Lantz, Priest, Clibborn, Shabro, Hunter and Green).

House Committee on Economic Development, Agriculture & Trade

Senate Committee on Financial Institutions, Housing & Consumer Protection

Background: With certain exceptions and under specified circumstances, a seller of residential real property must provide a buyer with a transfer disclosure statement that follows a statutorily-prescribed format with specified content. The form includes a statement that disclosure of the condition of the property is being made based on the seller's actual knowledge of the property at the time the form is completed. Required disclosures pertain to real property conditions such as title, water, sewer, structure, systems and fixtures, and common interests.

In addition, a seller of residential real property located within one mile of the property boundary of a farm or farm operation must disclose the farm's existence and inform a buyer that farming practices, protected by the Right to Farm Act, may produce noise, dust, odors and other association conditions.

Summary: A seller of residential real property must make available to a buyer a statement that the property for sale may be located in close proximity to a farm and that the farm's operation involves customary practices that are protected under the Washington Right to Farm Act. (This statement replaces the current requirement to disclose the existence of a farm within one mile of residential real property that is for sale.)

Votes on Final Passage:

House	97	1
Senate	47	0

Effective: June 7, 2006

SHB 2726
C 34 L 06

Creating Washington manufacturing services in statute.

By House Committee on Appropriations (originally sponsored by Representatives Chase, Skinner, Kessler, Haler, Kilmer, Grant, Chandler, Blake, Clements, Linville, Newhouse, McCoy, Kristiansen, Kenney and Wallace).

House Committee on Economic Development, Agriculture & Trade
House Committee on Appropriations
Senate Committee on International Trade & Economic Development

Background: Manufacturing is a major employer in Washington, employing 300,000 residents and accounting for 13 percent of all employment in the state. The manufacturing sector contributes $26.6 billion to the gross state product. However, manufacturing in Washington is on the decline, losing more than 44,600 jobs between June 2000 and June 2003. With increased competition from overseas manufacturers as well as from manufacturers located in other states, Washington's manufacturers are facing economic challenges.

Washington Manufacturing Services (WMS) is a not-for-profit organization with the mission of "fostering economic prosperity in the state of Washington by helping Washington's smaller manufacturers take action to increase their competitiveness (in a socially acceptable and environmentally responsible manner)." Affiliated with the National Institute of Standards and Technology Manufacturing Extension Program, the WMS can link manufacturers with local experts and national resources. Although the WMS is headquartered in Mukilteo, Washington, it maintains field offices throughout the state.

After a free pre-project visit by a WMS project manager, the WMS will develop with the manufacturer a plan of action. The WMS offers a variety of services, including lean manufacturing, industrial marketing and quality, safety, energy conservation, e-Business, software selection, workforce training, and product development. The WMS charges fees for these services.

Summary: The Legislature intends to increase the state's support for delivery of modernization services to small and midsize manufacturers as well as to leverage federal and private resources.

The WMS is organized as a private, nonprofit corporation in accordance with state law, with the mission of operating a modernization extension system, coordinating a network of private and public modernization resources, and stimulating the competitiveness of small and midsize manufacturers in Washington.

The WMS will be governed by a board of directors. A majority of the board will be representatives of small and medium-sized manufacturing firms and industry associations, networks, or consortia. In addition, the board must have at least one representative of a labor union or labor council. Ex officio board members include the Director of the Department of Community, Trade, and Economic Development (DCTED), the Executive Director of the State Board for Community and Technical Colleges, and the Director of the Workforce Training and Education Coordinating Board (or their designees).

The WMS must develop policies, plans, and programs to assist in the modernization of businesses in the targeted sectors of Washington's economy and coordinate the delivery of the modernization services. The WMS must provide information about the advantages of modernization to economic development officials, state colleges and universities, and private providers. The WMS must collaborate with the Washington Quality Initiative in the development of manufacturing quality standards and quality certification programs. In addition, the WMS must serve as an information clearinghouse and provide access for users to the federal Manufacturing Extension Partnership's national research and information system. The WMS must also provide, directly or through partners, assistance to industry associations, networks or consortia that would be of value to their members' firms in such areas as advanced business

management practices, product development, market research, and workforce training.

The WMS may charge fees for services and make and execute contracts or other legal instruments. The WMS may also receive funds from federal, state or local governments, private businesses, foundations, or any other source.

Votes on Final Passage:

House	97	1
Senate	47	0

Effective: June 7, 2006

2SHB 2754
C 343 L 06

Creating the veterans innovations program.

By House Committee on Appropriations (originally sponsored by Representatives Morrell, Campbell, Green, Haigh, Appleton, Kilmer, Darneille, Cox, Ormsby, Haler, Chase, P. Sullivan, McCoy, Wallace, Sells, Serben, Curtis, Moeller, Blake, Cody, Kenney, Conway, Ericks, Clibborn, Kessler, Simpson and Linville).

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

Background: The Department of Veterans Affairs provides a variety of services to veterans, including assistance with finding employment, submitting entitlement claims, managing long-term health care, obtaining counseling for post-traumatic stress syndrome, and addressing other needs specific to veterans.

Summary: The Veterans Innovations Program (VIP) is created within the Department of Veterans Affairs (Department). The purpose of the VIP is to provide assistance, in addition to that offered by the Department, to those veterans who have returned to their families and communities after serving in recent military action. The Department may receive gifts, grants, or endowments from public or private sources made for the use and purposes of the VIP. The VIP is terminated on June 30, 2016.

Two separate programs are created within the VIP: the Defenders' Fund Program and the Competitive Grant Program. The Defenders' Fund Program is administered by the Department and allows members of the National Guard and Reservists who served in Operation Enduring Freedom, Operation Iraqi Freedom, or Operation Noble Eagle to receive a one-time financial hardship grant of no more than $500 related to employment, education, housing, and health care. The Competitive Grant Program is created to fund innovative initiatives to provide crisis and emergency relief, education, training, and employment assistance to veterans and their families in their communities.

A seven-member board (Board) is created to administer the Competitive Grant Program. The members are appointed by the Governor, must have recognized experience in serving veterans and their families in the areas targeted by the Competitive Grant Program, and may not participate in any Board decision that would create a direct or indirect conflict of interest for that Board member. The Board must establish a competitive process to solicit proposals and prioritize project applications for potential funding. On January 1, 2007, the Board must submit a report on the implementation of the act to the appropriate standing committees of the Legislature and to the Joint Committee on Veterans and Military Affairs.

The VIP Account is created in the state treasury. Moneys in the account may be spent only after appropriation.

Washington National Guard and Reservist veterans who served in Operation Enduring Freedom, Operation Iraqi Freedom, or Operation Noble Eagle, and the veterans' spouses and children, are given priority when applying for enrollment in the Washington basic health plan.

Votes on Final Passage:

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

Effective: June 7, 2006

SHB 2759
C 35 L 06

Authorizing the transfer of certain real property and facilities.

By House Committee on Capital Budget (originally sponsored by Representatives Ericks, Pearson, Dunshee, Sells, Roberts and Rodne).

House Committee on Capital Budget
Senate Committee on Government Operations & Elections

Background: Referendum 29 - Health and Social Services Facilities. In 1972, Washington voters approved a $25 million bond issuance for the planning, acquisition, construction, and improvement of health and social service facilities in the state. Eligible facilities included facilities for social services, adult and juvenile correction or detention, child welfare, day care, drug abuse and alcoholism treatment, mental health, public health, developmental disabilities, and vocational rehabilitation. The proceeds from the sale of bonds were administered by the Department of Social and Health Services (Department). The Department was directed to prepare a comprehensive plan for a system of social and health service facilities for the state and was directed to provide

grants or loans to public bodies, including federally recognized tribes, to carry out the intent of the bond issuance. Funds were distributed based on regions identified by the Department.

Referendum 37 - Disability Care and Rehabilitation Facilities. In 1979, Washington voters approved a $25 million bond issuance for the planning, acquisition, construction, renovation, improvement, and equipping of regional and community facilities for the care, training, and rehabilitation of persons with sensory, physical, or mental handicaps. Eligible facilities included nonprofit group training homes, community centers, close to home living units, sheltered workshops, vocational rehabilitation centers, developmental disability training centers, and community homes for the mentally ill. The proceeds from the sale of bonds were administered by the Department. All Washington counties were eligible to receive bond proceeds, and the share distributed to each county was based on a population formula. Fixed assets acquired using these bond proceeds and no longer utilized by the program having custody of the assets could be transferred to other public bodies either in the same county or another county.

In 2005, the Attorney General's Office issued an opinion (AGO 2005 No. 1) relating to the authority of Yakima County to donate land and buildings to a nonprofit corporation operating programs for the developmentally disabled in leased facilities that were acquired or improved using Referendum 29 and 37 bonds. Neither statute contains language authorizing the transfer or donation of assets acquired with these bond proceeds to a private organization. The Attorney General's Office opined that Yakima County does not have the authority to make the donation to the nonprofit entity.

Summary: Public bodies may transfer, without further monetary consideration, real property and facilities acquired, constructed, or improved using Referendum 29 or Referendum 37 bonds to nonprofit social service providers, in exchange for the promise to continually operate services benefitting the public on the site, subject to certain conditions. The deed transferring the property must provide for immediate reversion back to the public body if the nonprofit corporation ceases to use the property for the purposes outlined in the act. Transfers may include lease renewals.

The nonprofit corporation is authorized to sell the property transferred to it only if certain conditions are satisfied. Any sale must have the prior written approval by the Department. All proceeds from the sale must be applied to the purchase price of a different property or properties of equal or greater value than the original property. Any new property must be used for the purposes stated in the act. The new property must be available for use within one year of sale. If the nonprofit corporation ceases to use the new property for the specified purposes, the nonprofit corporation must reimburse the public entity for the value of the original property at the time of the sale. If the nonprofit corporation ceases to use the property for the specified purposes, the property and facilities revert immediately to the public body. The public body must determine if the property, or the reimbursed amount in the case of reimbursement, can be used by another social service program as designated by the Department. Such programs will have priority in obtaining the property to ensure the purposes of the original referenda are carried out.

Votes on Final Passage:

House	96	2
Senate	49	0

Effective: June 7, 2006

SHB 2776
C 36 L 06

Regulating home heating fuel service contracts.

By House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Dickerson, Kirby, Roach and McDonald).

House Committee on Financial Institutions & Insurance
Senate Committee on Financial Institutions, Housing & Consumer Protection

Background: Insurance and insurance transactions are governed by the Insurance Code (Code). Among other things, this Code requires: (1) that insurers meet certain financial requirements; and (2) that agents, solicitors, and brokers of insurance comply with specified licensing standards. Financial and criminal penalties may result from noncompliance.

Certain transactions that fall within the definition of insurance have been addressed by exemptions from the Code or the creation of a specific regulatory structure. Entities regulated under these chapters may not be required to comply with the same capitalization and reserve requirements, reporting and solvency oversight, and claims handling practices as are required of an insurer selling a traditional insurance product.

In 1999, a chapter in the Code was created for the regulation of service contracts. A service contract provider may choose one of the following options to ensure that all obligations and liabilities are paid:

- insure its service contracts with a reimbursement insurance policy;
- maintain a reserve account that includes a portion of the gross consideration received for all service contracts and give the Insurance Commissioner a financial security deposit; or
- maintain or have the parent company maintain a net worth or stockholder's equity of $100 million.

Summary: A new chapter is created in the Code dedicated to the regulation of home heating fuel service con-

tracts. Home heating fuel service contracts are otherwise exempt from the Code and the chapter on service contracts generally.

Definitions are provided for the new chapter.

The chapter includes requirements that are approximately parallel to the chapter on service contracts for:

- registration of home heating fuel service contract providers, including an annual renewal of the registration;
- denial, suspension, and revocation of registration;
- financial protections;
- annual reports;
- investigations and enforcement actions by the Office of the Insurance Commissioner;
- standards for reimbursement insurance contracts if such a policy is used;
- standards for the home heating fuel service contracts;
- preventing deceptive marketing;
- record-keeping;
- termination of a reimbursement policy; and
- obligations under a reimbursement insurance policy.

The financial guaranty provisions applied to home heating fuel service contracts are slightly altered from the service contract structure. The option of insuring all contracts under a reimbursement policy remains intact. The option of allowing the maintenance of a net worth or stockholder's equity of $100 million is removed. The option of maintaining a reserve account and giving the Insurance Commissioner a financial security deposit is modified. The percentage of gross consideration remains the same but the minimum amount of the financial security deposit is reduced from $25,000 to $10,000.

Additional differences from the provisions of the chapter on service contracts include:

- home heating fuel service contracts would not be subject to the Consumer Protection Act;
- annual financial statements required for registration are not specifically required to be audited;
- the registration fee is reduced from $250 to $100;
- the $20 filing fee for the annual report is eliminated; and
- maximum fines per violation are reduced from $200,000 to $100,000.

The chapter applies to home heating fuel service contracts sold or offered for sale after October 1, 2006.

The Insurance Commissioner may adopt rules to implement and administer the new chapter.

Votes on Final Passage:

House	95	3
Senate	48	0

Effective: June 7, 2006

SHB 2778
C 310 L 06

Exempting certain amounts received by nonprofit convention and tourism promotion corporations from business and occupation tax.

By House Committee on Finance (originally sponsored by Representatives Murray, Kristiansen, Dickerson, Clements, Chase, McDonald and Dunn).

House Committee on Finance
Senate Committee on International Trade & Economic Development
Senate Committee on Ways & Means

Background: Business and Occupation tax. Washington's major business tax is the Business and Occupation (B&O) tax. The B&O tax is imposed on the gross receipts of business activities conducted within the state, without any deduction for the costs of doing business. The tax is imposed on the gross receipts from all business activities conducted within the state. Revenues are deposited in the State General Fund. A business may have more than one B&O tax rate, depending on the types of activities conducted. Retailing activities, for example, are taxed at a 0.471 percent rate, while general services are taxed at a 1.5 percent rate.

The B&O tax does not permit deductions for the costs of doing business, such as payments for raw materials and wages of employees. Payments received by non-governmental entities from governments are subject to tax unless expressly exempt. One example of an exemption is for payments received by an artistic or cultural organization from a governmental entity.

Hotel-motel taxes and room charges. Several local hotel-motel taxes are authorized under statute on charges for lodging at hotels, motels, rooming houses, private campgrounds, recreation vehicle parks, and similar facilities for continuous periods of less than one month. In general, receipts from these taxes are required to be used for the promotion of tourism or the construction and operation of tourism-related facilities. The Department of Revenue administers local hotel-motel taxes on behalf of the jurisdictions imposing the tax. In calendar year 2004, about $48.5 million was distributed to local jurisdictions for these purposes.

In 2003, the Legislature authorized the creation of tourism promotion areas. Counties with populations between 40,000 and 1,000,000, and all incorporated cities and towns located in such counties, are authorized to impose a charge on lodging to increase tourism and conventions within such areas. A fee of up to $2 per day per rented lodging unit may be assessed. Funding must be used for advertising, publicizing, or otherwise distributing information to attract and welcome tourists, or for operating tourism destination marketing organizations, in order to increase convention and tourism business. In calendar 2004, $931,685 was collected in the four cities

and one county imposing the charge.

Governmental convention and tourism promotion. Governments allocate portions of budgets for the purpose of promoting conventions and tourism. According to data received in the Budgeting, Accounting, and Reporting System (BARS), local governments in Washington spent about $12.4 million in operating funds in calendar year 2004 on conventions and tourism, and an additional $3 million for the purposes of marketing events at fairgrounds and stadia.

Governments may contract with private entities to assist with the promotion of tourism or conventions. Many local governments establish contracts with local convention and visitors bureaus or local chambers of commerce, which are typically nonprofit entities, for the purposes of promoting tourism or conventions.

Summary: Payments received by nonprofit businesses from public entities for the purpose of promoting conventions and tourism are exempt from B&O tax. Exempt payments include eligible amounts received from the state, counties, cities, towns, municipal and quasi-municipal corporations, public corporations, port districts, and Indian tribes.

Votes on Final Passage:

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

Effective: June 7, 2006

SHB 2780
C 216 L 06

Authorizing additional payroll deductions for state employees.

By House Committee on Appropriations (originally sponsored by Representatives McDermott, Hunt, Santos, Cody, Sells, Conway, Kenney, Ormsby, Williams, Green, Dunshee, Campbell, Appleton, Chase and Hasegawa).

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

Background: At the request of a state employee, deductions may be made from the employee's salary for payment of the following:

- credit union deductions;
- parking fee deductions;
- U.S. savings bond deductions;
- board, lodging, or uniform deductions when furnished by the state, or deductions for academic tuition or fees or scholarship contributions payable to the employing institution;
- dues and other fees deductions;
- labor or employee organization dues;
- insurance contributions for payment of premiums under contracts authorized by the Health Care Authority;
- deductions to a bank, savings bank, or savings and loan association; and
- contributions to the Washington State Combined Fund Drive.

Deductions for labor or employee organization dues may only be made in the event that a payroll deduction is not provided under a collective bargaining agreement and 25 or more employees of a single agency, or a total of 100 or more employees of several agencies, have authorized such a deduction to the same labor or employee organization.

Summary: In addition to labor or employee organization dues, an employee may authorize payroll deductions for contributions to one fund, committee, or subsidiary organization chosen and maintained by that labor or employee organization.

Votes on Final Passage:

House	97	1
Senate	37	9

Effective: January 1, 2007

2SHB 2789
C 161 L 06

Expanding apprenticeship opportunities for high school graduates.

By House Committee on Appropriations (originally sponsored by Representatives Quall, Conway, Wood, Hasegawa, Haigh, Ormsby, Murray, Chase, Kessler, Morrell, Green, Roberts, McCoy, Moeller, Simpson, Sells, Lantz, McDermott, Ericks, Hankins, Kagi and Hudgins; by request of Governor Gregoire).

House Committee on Commerce & Labor
House Committee on Appropriations
Senate Committee on Early Learning, K-12 & Higher Education
Senate Committee on Ways & Means

Background: Apprenticeship Programs. Apprenticeship programs enable individuals to learn trades and occupations through a combination of on-the-job training and related supplemental instruction. Apprenticeship programs are sponsored by joint employer and labor organizations, individual employers, and/or employer associations. The sponsor of an apprenticeship program plans, administers, and pays for the program.

The Washington State Apprenticeship and Training Council (WSATC) is the administrative arm of the apprenticeship section of the Department of Labor and Industries. The WSATC has the authority to, among other things, establish standards for apprenticeship pro-

grams and assist program sponsors with local administration of training programs.

Secondary School Pre-Apprenticeship Programs. Some high schools in Washington have established programs in partnership with local apprenticeship programs. The programs allow students to earn high school credits through courses at the high school and work-based internships at an employer's job site. Upon graduation, the students who complete these programs are typically qualified to enter directly into a full apprenticeship.

Centers of Excellence. The State Board for Community and Technical Colleges designates certain community and technical colleges as Centers of Excellence to focus on a "targeted industry." A targeted industry is defined as one that is strategic to the economic growth of a region or the state. The mission of Centers of Excellence includes providing responsive education, translating industry research into best practices, and building a competitive workforce.

Summary: Centers of Excellence. The existing community and technical college Centers of Excellence and other colleges identified by the State Board for Community and Technical Colleges, in consultation with the Washington State Apprenticeship and Training Council (WSATC), as having a high density of apprenticeship programs must act as brokers of relevant information and resources.

Educational Outreach by the Washington State Apprenticeship and Training Council. Using existing resources the WSATC must conduct an educational outreach program in conjunction with individual state-approved apprenticeship programs and the Office of the Superintendent of Public Instruction (OSPI). The educational outreach program must be directed at middle and secondary school students, parents, and educators. As part of the educational outreach program, the WSATC must communicate workforce projections to OSPI to distribute to all local school districts. Appropriate activities of the WSATC include assistance with curriculum development, establishment of practical learning opportunities, and seeking the advice and participation of business and labor.

Direct-Entry Programs and Incentive Grants. Using existing resources, the WSATC must approve and oversee direct-entry programs for graduating secondary students into building and construction-related apprenticeships by:

- assisting school districts in using and leveraging existing resources; and
- developing guidelines, including guidelines that ensure that graduating secondary school students will receive appropriate education and training and will have the opportunity to transition to local apprenticeship programs. The guidelines must be developed with input from the OSPI, the State Board for Community and Technical Colleges, the Work Force Training and Education Coordinating Board, and other interested stakeholders for direct-entry programs operated by apprenticeship programs.

The WSATC must award up to 10 incentive grants to school districts for the 2006-07 school year. The grants are to be awarded based on the guidelines established by the WSATC and are to be used solely for personnel to negotiate and implement agreements with local apprenticeship programs to accept graduating high school students with appropriate training. In awarding the incentive grants, the WSATC must make every effort to award them evenly across the state.

WSATC Reporting Requirements. Beginning December 1, 2006, and annually thereafter, the WSATC must report to the Governor and the Legislature on the following:

- the guidelines established by the WSATC;
- the names of the school districts receiving incentive grants;
- the results of negotiations between school districts receiving incentive grants and local apprenticeship programs;
- a list of apprenticeship programs that have agreed, pursuant to negotiated agreements, to accept qualified graduating secondary students; and
- the number of qualified graduating secondary students entering into apprenticeship programs each year through direct-entry programs.

Pilot Projects. Subject to funding, up to four pilot projects are created to expand student enrollment in pre-apprenticeship programs, particularly building and construction apprenticeships. The OSPI, in consultation with the WSATC, must award grants on a competitive basis for these pilot projects. Two of the pilot projects must involve Skill Centers and two of the pilot projects must involve community and technical colleges. At least one of the pilots is encouraged to involve small or rural high schools.

To review grant applications, the OSPI and the WSATC must convene a review committee representing the State Board for Community and Technical Colleges, the Workforce Training and Education Coordinating Board, business and labor interests with ties to apprenticeship fields, apprenticeship program coordinators, and career and technical educators in the public schools. Grant recipients must be notified by June 1, 2006.

The pilot projects must be ready to enroll students in 2006-07 and must operate for three years. To the maximum extent possible, students in the pilot projects must receive dual credit through Tech Prep or Running Start.

In addition to enrolling students in career and technical programs that enable them to enter into apprenticeships upon graduation, pilot projects may also do the following:

- develop or modify curriculum to align with apprenticeship entry requirements and skill expectations or to adjust curriculum to the secondary level;
- negotiate agreements for nonmonetary consideration or for no consideration to use local or regional apprenticeship program training facilities to offer programs;
- negotiate agreements with local or regional apprenticeship programs, community or technical colleges, or other contractors to provide specialized instruction within the program;
- negotiate direct-entry agreements with local or regional apprenticeship programs to accept pilot project graduates into the programs;
- conduct marketing, advertising, and communication about the pilot project to area teachers, counselors, students, and parents;
- provide tutoring and other academic support services; and
- offer support services such as counseling, community service referral, and assistance for low-income students such as tools, supplies, books, or transportation to non-school facilities.

Beginning December 1, 2007, the pilot projects must report annually to the WSATC. The WSATC must provide annual summary reports to the Governor and the Legislature. The pilot projects expire August 31, 2009.

Funding for Pilots. The pilots projects are established subject to funding. For a student enrolled in a community or technical college pilot project, funding for the community or technical college must be negotiated by the home school district and the college.

When a student enrolls in a pilot project at a community or technical college, standard tuition fees do not apply.

OSPI Workgroup. Using existing resources, the OSPI must convene a workgroup to identify barriers and opportunities for further expansion and scale-up of preapprenticeship programs, including building and construction apprenticeships. Recommendations from the workgroup are due to the Legislature and the Governor by December 1, 2006. The workgroup expires on August 31, 2009.

The workgroup must include representatives from the WSATC, local or regional apprenticeship programs, community and technical colleges, high schools, and Skill Centers. Issues to be considered by the workgroup may include:

- expanding participation and opportunities in Running Start for career-technical students, including the role of using parent involvement in guidance and counseling for students;
- highly qualified teacher requirements under the federal No Child Left Behind Act;
- cross-crediting of career-technical and core academic courses;
- the funding model for Skill Centers;
- benchmarks to measure outcomes from the pilot projects; and
- the impact of current student assessment and achievement requirements on student participation in apprenticeship preparation programs and opportunities for developing alternative assessment and achievement requirements.

Votes on Final Passage:

House	94	4	
Senate	42	2	(Senate amended)
House	89	6	(House concurred)

Effective: April 1, 2006

2SHB 2799
C 218 L 06

Providing tax exemptions for solar water heating equipment.

By House Committee on Finance (originally sponsored by Representatives Chase, Morris, Crouse, Eickmeyer, Clibborn, P. Sullivan, Hunt, McCoy, Miloscia, Grant, Sells, Williams, McCune, Moeller, Conway, Upthegrove, Morrell, Simpson, Kilmer, Kagi, Hudgins, Dunn and Darneille).

House Committee on Technology, Energy & Communications
House Committee on Finance
Senate Committee on Water, Energy & Environment

Background: Solar hot water heaters use the sun to heat either water or a heat-transfer fluid in collectors. The U.S. Department of Energy estimates that a typical solar hot water system will reduce the need for conventional water heating by about two-thirds.

Retail Sales and Use Taxes. The retail sales tax applies to the selling price of tangible personal property and of certain services purchased at retail. The use tax applies if retail sales tax has not been collected. Both the state and local governments impose sales and use taxes; the state rate is 6.5 percent and the average local rate is 2 percent statewide. Sales taxes are collected by the seller from the buyer at the time of sale. Use tax is remitted directly to the Department of Revenue. State sales tax and use tax revenues are deposited in the State General Fund.

All items or services sold or acquired at retail are subject to the retail sales and use taxes unless specifically exempt.

Solar Rating and Certification Corporation Standards. The Solar Rating and Certification Corporation (SRCC) is a non-profit organization whose primary purpose is the development and implementation of certification programs and national rating standards for solar energy equipment. The SRCC is an independent third-

party certification entity. It is the only national certification program established solely for solar energy products. States such as Arizona, California, Colorado, Hawaii, Illinois, Louisiana, Maryland, Minnesota, Montana, Nevada, Oregon, Pennsylvania, Vermont, and Wisconsin require that only SRCC rated solar hot water collectors be installed.

The SRCC operates three solar certification programs: collector certification (OG 100), water heating system certification (OG 300), and a certification program for solar swimming pool heating systems (OG 400). The collector certification program (OG 100) applies to that part of a solar energy system which is exposed to the sun and collects the sun's heat. The solar water heating system certification program (OG 300) deals with the entire solar system (collectors, controls, storage tanks, heat exchangers, pumps, etc.) used to heat domestic hot water using the sun.

Summary: Retail Sales and Use Tax Exemption. The OG-300 rated solar water heating systems, the OG-100 rated solar water heating collectors, solar heat exchangers, and differential solar controllers are exempt from state and local retail and use taxes. Also exempt from sales and use taxes are repair and replacement parts for such equipment and sales of or charges made for labor and services rendered in respect to installing, repairing, cleaning, altering, or improving such equipment.

Retention of Records. A person taking the sales tax exemption must keep records necessary to verify eligibility. The sales tax exemption is available only when the buyer provides the seller with an exemption certificate in a form and manner prescribed by the Department of Revenue.

Definitions. An "OG-300 rated solar water heating system" means those fully integrated solar water heating systems that have been rated as having met the operational guidelines currently set and listed by the Solar Rating and Certification Corporation.

An "OG-100 rated solar water heating collector" means those collectors that convert light energy to heat and that have been rated as having met the operational guidelines currently set and listed by the Solar Rating and Certification Corporation.

"Solar heat exchanger" means a device that is used to transfer heat from one fluid to another through a separating wall.

"Differential solar controller" means a controlling device that reads and adjusts the temperature at the solar water heating collector and the heated water collection tank.

Effective and Expiration Dates. The retail sales and use tax exemption takes effect July 1, 2006, and expires on July 1, 2009.

Votes on Final Passage:

House	95	1
Senate	47	0

Effective: July 1, 2006

SHB 2804
C 226 L 06

Modifying the property tax exemption for nonprofit schools and colleges.

By House Committee on Finance (originally sponsored by Representatives Conway, Holmquist, Serben, McIntire, Ahern, McDermott, Rodne, Buri, McDonald, McCune and Dunn; by request of Office of the Lieutenant Governor).

House Committee on Finance
Senate Committee on Ways & Means

Background: All property in this state is subject to the property tax each year based on the property's value, unless a specific exemption is provided by law. Several property tax exemptions exist for nonprofit organizations.

Property owned by or used for a nonprofit school or college is exempt from property tax. The exempt property must not exceed 400 acres in extent and must be limited to buildings and grounds designed for the educational, athletic, or social programs of the institution, the housing of students, the housing of religious faculty, the housing of the chief administrator, and athletic buildings. Other school or college facilities are exempt if the facilities are principally designed to further the educational functions of the institution and if the need for the facilities would be nonexistent but for the presence of the school or college.

Nonprofit tax-exempt property must be used exclusively for the activity for which the exemption is granted, unless one of the following exceptions applies:

- The property may be used for fund-raising activities without jeopardizing the exemption if the fund-raising activities are consistent with the purposes for which the exemption is granted.
- The property may be loaned or rented to an organization that would be exempt from tax if it owned the property.
- Museums and performing arts centers may be rented to entities not eligible for property tax exemption for up to 25 days each year.
- Museums and performing arts centers may be used for pecuniary gain or to promote business activities for seven days or less each year.
- Property owned by war veterans associations may be used for pecuniary gain or to promote business activities for three days or less each year.
- Public assembly halls and meeting places may be used for pecuniary gain or to promote business activities for seven days or less each year and also may be used for dance lessons, art classes, or music lessons

for any number of days in counties under 10,000 in population.

If rent is charged for the use of nonprofit tax-exempt property, the rent must be reasonable and not exceed maintenance and operation expenses.

If nonprofit property is used in a manner inconsistent with the requirements above, the property will lose its tax-exempt status and back taxes will be due. For a nonprofit foundation that supports an institution of higher education, taxes which would have been paid during the previous seven years must be repaid. For all other nonprofit organizations, taxes which would have paid during the previous three years must be repaid. Interest is due on repayments of back taxes.

Summary: The property tax exemption for a nonprofit school or college is nullified for the assessment year if the property is used by an individual or organization not entitled to a property tax exemption, unless one of the following exceptions apply: (1) The property may be used by students, alumni, faculty, staff, or other persons in a manner consistent with the educational, social, or athletic programs of the school or college. (2) The school or college may contract for food services for students, faculty and staff, the operation of a bookstore on campus, and related maintenance, operational, or administrative services. (3) The school or college may allow uses for pecuniary gain or to promote business activities for not more than seven days in a calendar year for each portion of the property. Sports or educational camp uses conducted by faculty members do not count against the seven days.

Any rent or donations received by the college or school for use of the property must be reasonable and not exceed maintenance and operation expenses.

An inadvertent use of the property in a manner inconsistent with school or college purposes will not nullify the exemption, if the inadvertent use is not part of a pattern of use.

Votes on Final Passage:

House	98	0
Senate	47	0

Effective: June 7, 2006

2SHB 2805
C 102 L 06

Expanding provisions relating to missing persons.

By House Committee on Appropriations (originally sponsored by Representatives O'Brien, Ericks, Morrell, Miloscia and Green).

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

Background: In 1985, legislation was enacted that established the Missing Children Clearinghouse. It required the Washington State Patrol (WSP) to establish a Missing Children Clearinghouse, which included the maintenance and operation of a toll-free 24-hour telephone hotline. The clearinghouse distributes information to local law enforcement agencies, school districts, the Department of Social and Health Services, and the general public regarding missing children (under the age of 18 years old). The information includes pictures, bulletins, training sessions, reports, and biographical materials that assist in local law enforcement efforts in locating missing children. The WSP also maintains a regularly updated computerized link with national and other statewide missing person systems and clearinghouses.

Generally, after a report is taken regarding a missing child, local law enforcement agencies must file an official missing person report and enter biographical information into the state's missing person computerized network within 12 hours. However, there is no statutory requirement for law enforcement agencies to timely file a missing persons report for a person over the age of 18 years old and enter such information into a statewide database.

The Washington State Forensic Investigations Council (Council) is a 12 member committee appointed by the Governor to oversee death investigations as part of the state's criminal justice system. The Council authorizes expenditures from the Council's Death Investigations Account for the purpose of assisting local jurisdictions in the investigation of multiple deaths involving unanticipated, extraordinary, and catastrophic events, or involving multiple jurisdictions. The Council also oversees the WSP Bureau of Forensic Laboratory Services (Bureau) and actively prepares and approves the Bureau's budget prior to submission to the Office of Financial Management.

The Bureau provides a wide range of forensic science expertise to city, county, and state law enforcement officers, assisting agencies at crime scenes, preparing evidence for trial, and providing expert testimony. The Bureau coordinates the efforts of the State's Breath Alcohol Test Program, Drug Evaluation and Classification Program, six crime laboratories, the Latent Print Laboratory, and the State Toxicology Laboratory.

Summary: The Legislature finds that there were over 46,000 reports of persons missing nationwide and over 500 missing persons in the State of Washington. The Legislature intends to build upon the past research and findings to aid in the recovery of missing persons and the identification of human remains.

Protocols. The Washington Association of County Officials (WACO), in consultation with the Washington Association of Sheriffs and Police Chiefs (WASPC), the Washington Association of Coroners and Medical Examiners (WACME), the Washington State Forensic Investi-

gations Council (FIC), the WSP, and other interested agencies and individuals, must convene a committee to coordinate the use of the latest technology and science available to improve the: (1) reporting of missing persons; (2) communication within the state and with national databases; (3) dissemination of information to other agencies and the public; and (4) reporting for missing persons and the collection and preservation of evidence.

Protocols established for the investigation of reported missing persons, the identification of human remains, the reporting and the identification of persons missing as the result of major events (i.e., tsunami, earthquake, or terrorism) must be endorsed by the WASPC, the WACO, the WACME, the FIC, and the WSP. These entities must then seek the voluntary adoption of the same protocols by all local law enforcement agencies, coroners, medical examiners, and others charged with locating missing persons or identifying human remains.

Training Modules. The FIC, in cooperation with the WACME, and other interested agencies, must develop training modules that are essential to the effective implementation and use of missing persons protocols. Funds provided in the state's Death Investigations Account may be used for developing the training modules. The training modules must provide training through classes and media that will train and educate small police departments or those at remote locations with the least disruption. The modules must include but are not limited to such items as the reporting process, the use of forms and protocols, the effective use of resources, the collection and importance of evidence and preservation of biological evidence, and risk assessment of the individuals reported missing.

Missing Person Website. The WASPC must create and maintain a statewide public website for the posting of relevant information concerning persons reported missing in Washington. The website must contain, but is not limited to, the missing person's name, physical description, photograph, and other information that is deemed necessary according to the adopted protocols. This website must allow citizens to more broadly disseminate information regarding missing persons for at least 30 days. However, due to the large number of reports received on persons who are overdue and subsequently appear, the information must be removed from the website after 30 days, unless persons filing the report have notified local law enforcement that the person is still missing.

The WSP must establish an interface with local law enforcement and the WASPC missing persons website, the toll-free 24-hour hotline, and national and other statewide missing persons systems or clearinghouses. Local law enforcement agencies must file an official missing persons report and enter biographical information into the state missing persons computerized network within 12 hours after notification of a missing person's report is received.

The establishment of the WASPC public website for missing persons is null and void unless funded in the Omnibus Appropriations Act. In addition, the establishment of the WSP's system that interfaces with national and other statewide missing persons systems and the requirement that local law enforcement file an official missing persons report and enter data into computerized networks within 12 hours after receiving a missing person's report, is null and void unless funded in the Omnibus Appropriations Act.

Filing Reports and DNA Collection. When a person reported missing has not been found within 30 days of the report, or at any time the investigating agency suspects criminal activity to be the basis of the victim being missing, the investigating agency must: (1) file a report; (2) initiate collection of DNA samples from the known missing person; and (3) ask the missing person's family or next of kin to give consent to request the person's dental records.

Biological samples taken for an investigation must be forwarded to the FBI and to the WSP Crime Lab as soon as possible. The investigating agency must then submit the collected DNA samples for nuclear DNA testing to the WSP Crime Laboratory in their jurisdiction, the DNA samples for mitochondrial DNA testing to the Federal Bureau of Investigation (FBI), and the dental records to the WSP Missing and Unidentified Persons Unit. In cases where criminal activity is suspected, the WSP must conduct nuclear DNA typing for entry into the state missing person's DNA data base as soon as possible.

The WSP Crime Lab must provide guidance to agencies regarding where samples should be sent and conduct nuclear DNA testing of the biological samples where appropriate. In the event additional testing is required, the mitochondrial DNA testing must be conducted through the FBI. However, priority for testing must be given to active criminal cases. If substantial delays in testing occur or federal testing is no longer available, the Legislature should provide funding to implement mitochondrial technology in Washington.

All descriptive information from missing person's reports and dental data submitted to the WSP Missing Persons and Unidentified Persons Unit must be recorded and maintained by the WSP in the applicable dedicated missing persons databases.

Votes on Final Passage:

House	96	0
Senate	44	0

Effective: June 7, 2006

SHB 2812
C 119 L 06

Increasing the levy base for school districts.

By House Committee on Appropriations (originally sponsored by Representatives Hunter, Rodne, Quall, Nixon, P. Sullivan, Jarrett, Clibborn, Tom, Morrell, Fromhold, Roberts, Schual-Berke, Simpson, Anderson and Kagi).

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

Background: Initiatives 728 (I-728) and 732 (I-732), as originally passed by the voters in 2000, provided additional state funds to public K-12 schools. In 2003, legislation was enacted that reduced the amounts school districts would have otherwise received under I-728 and I-732. In 2004, legislation was enacted that allowed districts, for levies collected in calendar years 2005 through 2007, to increase their levy bases by the amount they would have otherwise received if I-728 and I-732 had not been amended. These changes are described in more detail below.

I-728 and Amendment in 2003. I- 728 dedicated lottery proceeds and a portion of the state property tax for educational purposes by transferring revenues to the Student Achievement Fund and the Education Construction Account.

I-728 gave school districts an allocation of $450 per full-time equivalent (FTE) student beginning with the 2004-2005 school year. Thereafter, the $450 per FTE would increase annually for inflation.

However, in 2003 the Legislature enacted Engrossed Substitute Senate Bill 6058, which changed the per FTE student allocation as follows:

- $254/FTE for the 2004-05 school year;
- $300/FTE for the 2005-06 school year;
- $375/FTE for the 2006-07 school year; and
- $450/FTE for the 2007-2008 school year.

In subsequent years, the annual allocation would be $450/FTE increased for inflation.

I-732 and Amendment in 2003. I-732 provided that beginning with the 2001-2002 school year, an annual cost-of-living adjustment (COLA) would be granted to K-12 teachers and other public school employees.

During the 2001-2003 biennium, the Legislature appropriated sufficient funding to provide a COLA to K-12 staff. In 2003, legislation was enacted that removed the provision requiring the annual COLA for the 2003-2005 biennium.

Increase to Levy Base Following the 2003 Amendment of I-728 and I-732. In 2004, the Legislature temporarily increased each district's levy base for calendar years 2005 through 2007. A district's levy base was increased by two factors:

1) the difference between what a district would have received if I-728 had not been amended and what the district actually received; and
2) the difference between what the district would have received if it had received the COLA as provided by I-732 and what it actually received.

Levy Equalization. Washington provides levy equalization payments for all districts that pass a levy requiring a property tax rate for a 12 percent levy that exceeds the state average property tax rate for a 12 percent levy. Legislation enacted in 2002 reduced levy equalization payments by 1 percent for calendar year 2003. Legislation enacted in 2003 and 2005 reduced levy equalization payments from what they would have otherwise been by, respectively, 6.3 percent for January 1, 2004, through December 31, 2005, and 4.37 percent through January 1, 2006, to June 30, 2007. After June 30, 2007, levy equalization payments may not be reduced by any percentage.

Summary: The temporary increase in districts' levy bases provided in 2004 is extended for levy collections through calendar year 2011.

From January 1, 2006, until December 31, 2006, levy equalization allocation and maximum eligibility will be reduced by 4.37 percent of what it otherwise would be. Beginning with calendar year 2007, allocations and maximum eligibility for levy equalization will be fully funded at 100 percent and will not be reduced.

Votes on Final Passage:

House	62	36	
Senate	48	0	(Senate amended)
House	98	0	(House concurred)

Effective: June 7, 2006

SHB 2817
C 180 L 06

Establishing a technology emphasis for institutions of higher education.

By House Committee on Higher Education & Workforce Education (originally sponsored by Representatives Sells, McCoy, Strow, Dunshee, Lovick, Jarrett, Morris, Ormsby, Morrell, Haler, O'Brien, Fromhold, Ericks, Kilmer and B. Sullivan).

House Committee on Higher Education & Workforce Education
Senate Committee on Early Learning, K-12 & Higher Education

Background: State Trends in Undergraduate Enrollment and Degree Production. The Office of Financial Management (OFM) collects data on undergraduate enrollments and degrees produced in specific fields. The OFM data show that of the 90,074 full-time equivalents

(FTEs) who were enrolled at the undergraduate level in 2002-2003 at public four-year institutions:

- engineering enrollments declined by 12 percent since 1992-93;
- close to 4 percent of total enrollment was in the field of engineering and related technologies;
- about 17 percent of total enrollment was in the sciences; and
- approximately 3 percent of total enrollment was in the field of computer science.

A total of 20,456 bachelor degrees were awarded in all fields, and the data show that:

- the number of engineering degrees awarded declined by 8.6 percent since 1992-93;
- 4.2 percent of the degrees were in engineering and related fields;
- 1.5 percent of the degrees were in physical science;
- 4.6 percent of the degrees were in life sciences; and
- 2.6 percent of the degrees were in computer science.

Relationship Between Specific Fields of Study and Employer Demand. A recent joint study conducted by the Higher Education Coordinating Board (HECB), the Workforce Training and Education Coordinating Board, and the State Board for Community and Technical Colleges states that demand for workers trained at the baccalaureate level and higher in certain occupations is not met by current supply. Current degree production meets only 67 percent of the need in engineering and 56 percent of the need in computer science. The study finds that demand would best be met through increased enrollment in related programs.

Summary: The Legislature recognizes that placing a priority on enrolling students and conferring degrees in the fields of engineering, technology, biotechnology, science, computer science, and mathematics is vital to the state's economic prosperity. Therefore, it is the Legislature's intent to promote increased access, delivery models, enrollment slots, and degree opportunities in these fields.

Institutions of higher education are required to determine local student demand in these fields and submit findings and proposed alternatives to meet demand to the HECB and the Legislature by November 1, 2008. The HECB must track and report progress in at least the following ways:

- the number of students enrolled in these fields on a biennial basis;
- the number of associate, bachelor's and master's degrees conferred in these fields on a biennial basis;
- expenditures on enrollment and degree programs in these fields; and
- the number and type of public-private partnerships established relating to these fields.

The institutions of higher education have discretion and flexibility in achieving the objectives of increasing enrollments and degrees conferred in these fields. Types of institutional programs include, but are not limited to, establishment of institutes of technology, new polytechnic-based institutions, and new divisions of existing institutions. Examples of delivery models include face-to-face learning, interactive courses, internet-based offerings, and instruction on main campuses, branch campuses, and other educational centers.

Votes on Final Passage:

House	98	0	
Senate	48	0	(Senate amended)
House	95	0	(House concurred)

Effective: June 7, 2006

HB 2829
C 219 L 06

Modifying provisions concerning the regulation of driver training schools.

By Representatives Wallace, Curtis, Haigh, Springer, Morrell, Hunt, Takko, Schual-Berke, Murray and Moeller; by request of Department of Licensing.

House Committee on Transportation
Senate Committee on Transportation

Background: From 1979 until 2002, the Department of Licensing (DOL) was responsible for completing yearly inspections of driver training schools, vehicles, and student records. The Office of the Superintendent of Public Instruction (OSPI) was responsible for teacher qualifications and training, curriculum development, and insuring that schools and instructors were following the curriculum requirements.

With legislation enacted in 2002, the DOL became the sole agency responsible for overseeing the driver training school program. Driver training schools must meet standards set by the DOL, and driver training schools must be annually approved by the DOL. The OSPI continues to set the curriculum in schools, while the Driver Instructors Advisory Committee recommends the curriculum for the driver training schools. The Advisory Committee also updates the instructor certification standards, taking into consideration the standards set by the OSPI.

When the 2002 legislation was passed, there were approximately 119 schools and 407 instructors. As of June 2005, there were 214 schools, and almost 800 instructor applications had been processed by the DOL.

Summary: The licensing of driver training schools and instructors is under the authority of the Uniform Regulation of Business and Professions Act, giving the DOL the same authority over these groups as it has for other licensees. The DOL's ability to take disciplinary action for a variety of acts is also under the Uniform Regulation of Business and Professions Act.

The definition of "fraudulent business practices" includes a variety of practices such as operating a driver training school without a license, making false or misleading statements in an application, failing to keep proper records, and issuing driver training certificates without requiring completion of necessary training and instruction.

A driver training school must be inspected and its business practices reviewed prior to licensure, and a transfer of ownership requires an application to the DOL. The application fee for a driver training school license is set by the DOL by rule, along with a number of other fees.

In order to qualify for an instructor's license, an applicant must meet a variety of requirements including passage of an exam and 60 hours of instruction in the training of drivers. Once licensed, driver instructors are required to undertake professional development according to standards set by the director of the DOL, and instructor's licenses must be prominently displayed. Revoked or cancelled instructor licenses must be surrendered to the DOL within 10 days of the date of action.

The requirement to undergo a criminal background check includes all staff who come into contact with students, and periodic rechecking is required.

The DOL is responsible for compiling the driver training school curriculum and the curriculum must include information regarding the intermediate driver's license restrictions and sanctions.

Votes on Final Passage:

House	82	13
Senate	48	0

Effective: March 24, 2006

SHB 2836
C 120 L 06

Creating the reading achievement account.

By House Committee on Appropriations (originally sponsored by Representatives Sommers, Kagi, Green and Kilmer).

House Committee on Appropriations
Senate Committee on Ways & Means

Background: The Office of the State Treasurer manages over 400 trust accounts and funds. If a fund or account is held within the state treasury, an appropriation is required for expenditures. Funds and accounts in the custody of the State Treasurer are not held in the state treasury and are nonappropriated and generally restricted to a particular purpose. Ordinarily, unspent appropriations lapse at the close of the fiscal year. Monthly interest earned from the investment of trust accounts and funds may either be set aside for the State General Fund or a proportionate share of earnings may remain in specified accounts or funds.

The Governor is proposing to consolidate early learning activities into a new cabinet level Department for Early Learning (Department). Washington Learns is also recommending the creation of an early learning department. In the 2005-07 budget, $250,000 was appropriated to the Office of the Superintendent of Public Instruction to establish the Early Reading Initiative (Initiative). The Initiative is a grant program targeted at pre-reading and early reading skills through community-based initiatives.

Summary: A Reading Achievement Account (Account) is created in the custody of the State Treasurer. The Director of the Department for Early Learning (Director) must deposit in the Account all state appropriations to the Department and all non-state moneys received by the Department for reading achievement, including reading foundations and implementation of research-based reading models.

The Director, or the Director's designee, may expend moneys in the Account only for the purposes for which they were appropriated and is subject to any other conditions or limitations placed on the appropriations. Moneys deposited in the Account will not lapse at the close of the fiscal period for which they were appropriated.

The Reading Achievement Account will retain its interest earnings.

Votes on Final Passage:

House	97	1	
Senate	43	0	(Senate amended)
House	98	0	(House concurred)

Effective: June 7, 2006

ESHB 2848
C 259 L 06

Protecting confidentiality of domestic violence information.

By House Committee on Judiciary (originally sponsored by Representatives Lantz, Ericks, Santos, Williams, Rodne, Priest, Hudgins, Darneille, Morrell, Kessler, McDonald, Roberts, McCoy, Kenney, Campbell, P. Sullivan, Wallace, Hasegawa, Kilmer, Green, Simpson, Wood, Ormsby and Springer).

House Committee on Judiciary
Senate Committee on Judiciary

Background: Privileged Communications. The judiciary has inherent power to compel witnesses to appear and testify in judicial proceedings so that the court will receive all relevant evidence. However, the common law and statutory law recognize exceptions to compelled testimony in some circumstances, including "testimonial privileges." Privileges are recognized when certain

classes of relationships or communications within those relationships are deemed of such importance that they are to be protected.

Washington statutory law establishes a number of privileges, including communications made by a sexual assault victim to a sexual assault victim advocate. The advocate may disclose information without the consent of the victim to prevent a clear, imminent risk of serious physical injury or death. The advocate is immune from civil or criminal action that arises from a good faith disclosure. In an action arising from a disclosure, the advocate's good faith is presumed.

DSHS and Domestic Violence Information. The Department of Social and Health Services (DSHS) administers state and federal funds for domestic violence programs, which include shelters. The DSHS establishes minimum standards for shelters receiving funds. The shelters must provide certain services, including client advocacy and counseling. Client records maintained by a domestic violence program are not subject to discovery in any judicial proceeding unless certain conditions are met.

The DSHS also administers and disburses state and federal public assistance funds. The DSHS may not disclose the contents of any records, files, or other communications, unless the disclosure is directly connected with the administration of the public assistance programs.

Summary: Privileged Communications. A new privilege is created. Communications made between a domestic violence victim and domestic violence advocate are privileged and may not be disclosed without the consent of the victim. A "domestic violence advocate" is an employee or supervised volunteer from a community-based domestic violence program or human services program that provides information, advocacy, counseling, crisis intervention, emergency shelter, or support to victims of domestic violence and who is not employed by or under the direct supervision of law enforcement, a prosecutor's office, or child protective services of the DSHS.

An advocate may disclose confidential communications without the victim's consent if failure to do so is likely to result in a clear, imminent risk of serious physical injury or death. The privilege does not relieve a domestic violence advocate from the mandatory reporting requirements for child abuse. Domestic violence advocates are immune from liability for good faith disclosure. In an action arising out of disclosure, the advocate's good faith is presumed.

DSHS and Domestic Violence Information. Unless required by court order, a domestic violence program and those assisting in delivering services, or any agent, employee, or volunteer of a domestic violence program, must not disclose information about a recipient of domestic violence services without the recipient's, signed authorization.

The recipient's authorization must have a reasonable time limit on the duration. If the authorization does not have a specific expiration date, the authorization expires 90 days after the date it was signed. An authorization is not a waiver of the recipient's rights or privileges under other statutes, rules of evidence, or common law.

If disclosure is required by statute or court order, the domestic violence program must make reasonable attempts to notify the recipient of the disclosure. If personally identifying information is to be disclosed, the domestic violence program must take steps necessary to protect the privacy and safety of the persons affected by the disclosure.

For nonshelter community-based programs receiving DSHS funding, the DSHS must establish minimum standards to enhance safety and security by means such as, but not limited to, client advocacy, client confidentiality, and counseling.

The DSHS must review methods to improve and protect the confidentiality of information about recipients of public assistance who have disclosed to the department that they are victims of domestic violence or stalking.

Votes on Final Passage:

House	98	0
Senate	47	0

Effective: June 7, 2006

HB 2857
C 78 L 06

Revising terms of appointment of student regents and trustees.

By Representatives Kenney, Sells, Cox, Rodne and Kessler.

House Committee on Higher Education & Workforce Education

Senate Committee on Early Learning, K-12 & Higher Education

Background: Student regents are appointed at each of the public baccalaureate institutions. They serve a one-year term which begins the first day of June and ends when their successor is appointed and qualified.

Budget conversations and decisions at the public four-year institutions generally occur in the month of June. Student regents therefore must participate in planning the budget immediately after they are appointed, and before they have had the chance to familiarize themselves with budget issues.

Summary: Student regents will hold office from the first day of July until the first day of July the following year, or until their successor is appointed and qualified, whichever is later.

Votes on Final Passage:

House 98 0
Senate 45 0

Effective: June 7, 2006

E2SHB 2860
C 6 L 06

Regarding water resource management in the Columbia river basin.

By House Committee on Capital Budget (originally sponsored by Representatives Grant, Newhouse, Hankins, Haler, Walsh and McCune).

House Committee on Economic Development, Agriculture & Trade
House Committee on Capital Budget
Senate Committee on Water, Energy & Environment

Background: The 2005 Capital Budget contained a $10 million appropriation to the Department of Ecology (Department). However, the funding in the appropriation may not be used by the Department unless and until the Legislature takes action to establish policy requirements for a new water resources and water rights management program for the mainstem of the Columbia River.

Summary: Columbia River Water Supply Inventory. The Department is required to work with stakeholders in developing an initial Columbia River Water Supply Inventory (Inventory) and Water Demand Forecast by November 15, 2006. The Department must update the Inventory each year after 2006 and update the Water Demand Forecast every 5 years. The Inventory must identify potential conservation and storage projects in the Columbia River basin, as well as estimate the costs and benefits of the projects. The Inventory must also rank the identified projects in a number of different ways. This includes rankings of the projects in order of expense, benefits to fish, and benefits to out-of-stream needs.

Columbia River Basin Water Storage and Supply Account. The Columbia River Basin Water Supply Development Account (Account) is created. The Account is allowed to accept direct appropriations, payments made pursuant to voluntary regional agreements, and other sources.

Expenditures from the Account may be used to assess, plan, and develop new water storage, improve existing storage, fund conservation projects, and implement actions designed to provide new access to water in the Columbia River Basin.

Before any funds from the Account can be used for construction, the Department must evaluate the water uses the new facility will serve, the benefits and costs of the project, and alternative means of achieving the same goals.

The $10 million appropriation in the 2005 Capital Budget is amended to specify that the money may be used to begin implementing the goals of the Account. Specific water supply projects are identified for the Department as a focus of their implementation of the appropriation.

Allocation of "new" water. Water supplies that are developed and secured through projects funded by the Account must be used in specified ways. Two-thirds of this water must be dedicated to out-of-stream uses, while one-third must be used by the Department to enhance instream flows.

Voluntary regional agreements. The Department is given the specific authority to enter into voluntary regional agreements that establish the approval conditions for water withdrawals from the Columbia River and Snake River. These agreements must be limited to specific geographical areas and to parties that use or propose to use water from the mainstem of the Columbia and Snake rivers.

Prior to entering into a voluntary regional agreement, the Department must consult with the Department of Fish and Wildlife and watershed planning groups regarding the benefits that could be produced for fish, wildlife, and other instream values. Any draft agreements are subject to a 30-day public review and comment period. Before providing final consultation to the Department, the Department of Fish and Wildlife must consult with fisheries co-managers.

When voluntary regional agreements lead to the allocation of water for out-of-stream uses, the Department is given specific directions as to how the water is to be allocated. All allocations must ensure that water provided for out-of-stream uses does not cause a reduction in stream flows in the mainstem of the Columbia River during July or August, or in the Snake River between April and August. Water use applicants utilizing the voluntary regional agreement process to access new appropriations must agree to efficient water use practices.

The authority to enter into voluntary regional agreements expires on June 30, 2012. Any agreements entered into prior to the expiration date remain in effect subject to the terms of the agreement.

Conserved water. Except for water conserved within the federal Columbia Basin Reclamation project, when the state funds water conservation from the Account to benefit the mainstem of the Columbia River, conserved water must be held in trust by the Department in the same proportion as the share of funding that was provided by the state for the project that led to the water conservation. This portion of the conserved water must be used to improve instream flows to benefit fish and other instream values.

Columbia Mainstem Water Resources Information System. The Department must establish and maintain a

Columbia Mainstem Water Resources Information System (System) to provide information necessary for effective resource planning and management on the mainstem of the Columbia River. In developing the System, the Department must consult with, and rely on information provided by, other public entities operating in the basin.

The System must address the total aggregate quantity of water rights on the Columbia River mainstem and the total volume metered and reported by water users.

The act is null and void if $200 million is not provided in a separate bond authorization act.

Votes on Final Passage:

House 94 4
Senate 48 0

Effective: July 1, 2006

SHB 2867
C 166 L 06

Regarding expansion of WSU Tri-Cities into a four-year institution.

By House Committee on Appropriations (originally sponsored by Representatives Kenney, Haler, Grant, Hankins, Cox, Sells, Roberts, Fromhold, Armstrong, Walsh, Skinner and Newhouse).

House Committee on Higher Education & Workforce Education
House Committee on Appropriations
Senate Committee on Early Learning, K-12 & Higher Education
Senate Committee on Ways & Means

Background: In 1989, the Legislature established five branch campuses in Washington's growing urban areas, to be operated by the state's two public research universities. The branch campuses included Washington State University (WSU) Tri-Cities. The campuses were authorized to offer only upper-division and graduate education programs, in collaboration with local community and technical colleges. The mission of the branch campuses, as established by statute, is to expand access to higher education and contribute to regional economic development through collaboration with community and technical colleges.

In 2005, the Legislature directed WSU Tri-Cities to expand its upper division capacity for transfer students and its graduate capacity and programs, while continuing to provide innovative coadmission and coenrollment options with Columbia Basin College. The Legislature also authorized WSU Tri-Cities, beginning in the fall of 2006, to begin offering lower-division courses linked to specific majors in fields not addressed by the local community colleges.

Additionally, the 2005 legislation authorized WSU Tri-Cities to develop a bachelor's degree program in biotechnology and to admit freshman and sophomores to that program directly (as opposed to through coadmission or coenrollment agreements with community colleges). The Higher Education Coordinating Board (HECB) must approve the biotechnology program before WSU Tri-Cities may provide it. To date, WSU Tri-Cities has not requested the HECB's approval of such a program.

Summary: The WSU Tri-Cities is directed to examine resources available at the Pacific Northwest National Laboratory and to develop a plan regarding: (1) areas of need in higher education that exist in southeastern Washington; and (2) how WSU Tri-Cities may best develop into a four-year institution. The WSU Tri-Cities must submit its plan to the Legislature by November 30, 2006.

Beginning in the fall of 2007, WSU Tri-Cities may admit lower-division students directly into programs beyond the biotechnology field that were identified in the campus' plan as being in high need in southeastern Washington. Any new programs must be approved by the HECB. By adding new programs and admitting lower division students, WSU Tri-Cities is directed to develop into a four-year institution.

Votes on Final Passage:

House 97 1
Senate 44 0

Effective: June 7, 2006

ESHB 2871
C 311 L 06

Modifying regional transportation governance provisions.

By House Committee on Transportation (originally sponsored by Representatives Murray, Dickerson, Appleton and Simpson).

House Committee on Transportation
Senate Committee on Transportation

Background: Overview - Regional Transportation Governance and Planning. Within the Central Puget Sound Region, transportation planning, funding, development, and services are provided by numerous public agencies. These include: the Department of Transportation (DOT), responsible for state highways within the region; four county governments; 87 cities; six public transportation agencies including the Seattle Monorail Authority; the three-county Regional Transit Authority (RTA, or Sound Transit); Washington State Ferries, a division of the DOT, operating both auto and passenger-only ferry service; and several port districts. In addition, in 2002, a Regional Transportation Investment District (RTID) was authorized for the purpose of planning, funding, and building projects to address highway corridor needs in King, Pierce, and Snohomish counties.

Regional Transportation Investment District. Implementation of the RTID requires at least two contiguous counties forming the district and requires the establishment of a planning committee to develop a plan for transportation investments in the three-county district and identification of revenue options to fund them. The planning committee comprises the council members of King, Pierce, and Snohomish counties. County council members' votes are weighted proportionally to population. The Secretary of Transportation is a non-voting member. The planning committee elects a seven-member executive board to carry out its duties, subject to full committee approval.

The RTID boundaries are coextensive with the boundaries of the contiguous counties that established the district. There is no opportunity for a portion of the district to be exempt from the district, once it is created.

Projects eligible for the RTID funding, and which may be included in a regional transportation investment plan, are capital improvements to: (1) highways of statewide significance including new lanes and earthquake repairs; (2) highways of statewide significance, which may include High Occupancy Vehicle (HOV) lanes and associated multimodal capital improvements that support public transportation, vans, and buses; and (3) under specified conditions, certain city streets, county roads, or highways that intersect with highways of statewide significance; however, not more than 10 percent of district funds nor more than $1 billion may be expended on local projects, and one-third local matching funds for the projects are required. The use of funds for operations, preservation, and maintenance of the RTID projects is prohibited.

The county legislative authorities within the district may certify the plan to the ballot, as a single ballot measure to approve or disapprove the regional transportation investment plan. County legislative authorities are not required to adopt or not adopt, by ordinance, the plan prior to submitting a measure to the voters.

The RTID was initially granted various tax options including, up to: 0.5 percent sales tax; $100 annual vehicle license fee; 0.3 percent Motor Vehicle Excise Tax (MVET); employer tax; parking fee; and limited tolling authority. In 2003, the RTID was authorized to sell bonds, and the RTID, or counties for RTID purposes, were authorized a local option fuel tax at 10 percent of the state fuel tax rate. A RTID and counties, for city and county road purposes, may not impose the tax at the same time. The RTID is authorized to collect tolls on facilities where lanes are added or the lanes are reconstructed by the RTID. Such tolls need not be approved by the state Transportation Commission. The Department of Transportation (DOT) may construct toll facilities that are sponsored by a RTID. A RTID is not authorized to impose a network value pricing charge based on vehicle miles traveled for users in the district.

The RTID executive board began developing a plan for improvements and adopted a revenue plan in March 2004. This plan identified a $13.2 billion revenue package, which included a joint ballot proposition with Sound Transit. A draft investment plan was adopted by the executive board in April 2004. After the business community advised the RTID executive board that it would not support a fall 2004 ballot measure, and Sound Transit did not vote to join the ballot issue, the 2004 plan did not go to the ballot. As of January 2006, the executive board is developing a new plan. No date has been set for the new plan to go to the ballot.

Regional Transit Authority. Two or more contiguous counties each having a population of 400,000 persons or more may establish a RTA to develop and operate a high capacity transportation system. A high capacity transportation system is an urban public transportation system that operates principally on exclusive rights-of-way and provides a substantially higher level of passenger capacity, speed, and service frequency than traditional public transportation systems operating mainly on general purpose roadways. Sound Transit is the RTA established by King, Pierce, and Snohomish counties.

In the 1990s, Sound Transit developed and adopted a system and financing plan which, among other things, identified revenues expected to be generated by corridor and county, phasing of construction and operation of high capacity system facilities, and the degree to which revenues generated within each county would benefit the residents of that county including when such benefits would accrue. Sound Transit is preparing the second phase of its development and finance plan.

Local Transit Agency Governance. Local transit agencies such as King County Metro, Community Transit, Everett Transit, and Pierce County Transit are established by and subject to separate statutory provisions. They are not subject to any centralized governance.

Coordination of Regional Transportation Governance and Planning. The number of agencies involved in transportation planning and delivery of services has significantly added to the complexity of transportation programs. Public polling and focus group results indicate public confusion regarding transportation decision making, planning, and funding, and public concern over ensuring efficiency, accountability, and coordinated action among transportation planning entities.

Agencies involved in transportation planning, funding, and operation are separately governed and not required to coordinate their development of regional transportation investment plans or submission of ballot measures to the people.

Summary: The Regional Transportation Commission (Commission) is created with several powers and duties related to evaluating regional transportation issues and developing a regional transportation governance proposal. The Commission is comprised of nine members,

all private citizens appointed by the Governor, plus the Secretary of the DOT as a nonvoting member.

The Commission must:

- evaluate a broad range of regional transportation governance issues, including transit agency boundary adjustments, consolidation options, and coordination of all agencies (including the DOT) that have a role in regional transportation planning, funding, and operations;
- develop a proposal that includes an option for forming a permanent, directly elected regional transportation governing entity, as well as the governing entity's finance strategy, authorized revenue sources, and planning authority; and
- submit its governance proposal to the 2007 Legislature.

The RTID statutes are modified in several respects.

- The RTID is allowed to change its boundaries to be contiguous with regional transit authority boundaries. The peninsula portion of Pierce County is prohibited from inclusion in the RTID.
- The RTID must submit its finance plan as a common ballot measure along with a Sound Transit Phase 2 plan at the 2007 general election, and is permitted to have a ballot title exceeding 75 words.
- The local match contribution required of local jurisdictions toward certain RTID projects is reduced from one-third to 15 percent.
- The authorized sales and use tax that the RTID may impose is capped at 0.1 percent.
- The RTID's authority to impose a motor vehicle excise tax is increased to 0.8 percent, and the RTID may spend MVET revenue on any project contained in its plan.
- The RTID's tolling authority is broadened and specifically includes either or both Lake Washington bridges.
- The RTID keeps the interest on its state treasury accounts.
- The list of eligible projects which the RTID may fund is expanded to permit operations, preservation, and maintenance of tolled facilities backed by bond contracts, and is required to include operational expenses for traffic mitigation relating to construction mitigation arising from specific projects in the RTID plan.

Neither the RTID nor Sound Transit may submit a new ballot measure to the voters prior to the 2007 general election. Each entity must submit a finance plan to voters in 2007, and neither plan may be approved unless the other plan is also approved. For a county to participate in a RTID plan, the county legislative authorities must adopt an ordinance indicating that county's participation in the plan.

After December 1, 2007, King, Pierce, and Snohomish counties may establish single-county Regional Transportation Investment Districts and transportation benefit districts for broadly defined local transportation projects.

The RTID plan must contain an SR 520 proposal that provides full project funding for seismic safety and corridor connectivity on the SR 520 project between Interstate 5 and Interstate 405. Prior to commencing construction on the 520 bridge project, the DOT must also have a record of decision providing reasonable assurances to affected cities and towns that the project impacts of the SR 520 bridge replacement and HOV project will be addressed in some manner.

An expert review panel is established for the Alaskan Way viaduct and Seattle seawall replacement project and the State Route 520 bridge replacement and HOV project to review project finance plans and implementation plans on each project and report its findings by September 1, 2006, to the Governor. Seattle voters or the Seattle City Council must indicate the choice of preferred alternative on the Alaskan Way project by early November 2006. The Governor must make a finding of whether the finance and project implementation plans on the Alaskan Way and SR 520 projects are feasible and sufficient.

Environmental and financial planning work must be completed on both the Alaskan Way viaduct and Seattle seawall replacement project and the State Route 520 bridge replacement and HOV project before the Department of Transportation may commence construction on either project.

Votes on Final Passage:

House	71	26	
Senate	36	10	(Senate amended)
House			(House refused to concur)
Senate	38	7	(Senate amended)
House	70	28	(House concurred)

Effective: June 7, 2006
July 1, 2006 (Section 23)

HB 2874
C 37 L 06

Modifying transportation project design-build provisions.

By Representatives Murray, Ericksen, Jarrett, Wallace and Woods; by request of Department of Transportation.

House Committee on Transportation
Senate Committee on Transportation

Background: In December 1996 the Department of Transportation (DOT) created an in-house task force to investigate the use of design-build contracting for DOT projects. In 1998 the Legislature granted the DOT statutory authority to use design-build contracting on two pilot projects, each of which had to cost over $10 million. The DOT was also required to present a detailed

report to the Legislative Transportation Committee within one year of completion of the pilot projects.

The law required the DOT to develop criteria for use of the design-build process, which had to include the scope of services, contractor pre-qualification requirements, evaluation criteria, and a dispute resolution procedure.

In 2001 the Legislature granted the DOT the authority to use design-build on projects costing over $10 million and extended the sunset date to April 30, 2008.

The Blue Ribbon Commission on Transportation recommended that the Legislature grant statutory authority to transportation agencies to use design-build techniques and other alternative delivery concepts, such as design-build-operate, design-build-operate-own, design-build-operate-transfer, and general contractor/construction management.

Summary: The DOT is authorized to use design-build contracting procedures for up to five pilot projects that cost between $2 million and $10 million in order to evaluate the efficiency and effectiveness of design-build for these size of projects.

The sunset clause is removed allowing use of design-build contract procedures beyond April 30, 2008.

Votes on Final Passage:

House	98	0
Senate	47	0

Effective: June 7, 2006

SHB 2876
C 38 L 06

Clarifying procedures for sound and video recordings by law enforcement officers.

By House Committee on Judiciary (originally sponsored by Representatives Ericksen, Wood, Dunn, Armstrong and Ericks; by request of Washington State Patrol).

House Committee on Judiciary
Senate Committee on Judiciary

Background: The Privacy Act. Washington's Privacy Act generally prohibits the interception or recording of any private communication or conversation without the consent of all parties to the communication or conversation. There are several exceptions to this general prohibition, including exceptions allowing one-party consent in a variety of cases. There are also conditions under which a court may authorize an interception or recording without the consent of any participant in a communication or conversation.

In addition, there are many exceptions from the Privacy Act's provisions, including exceptions for: certain common carrier services; 911 services; police, fire, emergency medical service and poison centers when recording incoming calls; the Department of Corrections recording of inmate conversations; and video and sound recordings of arrested persons by police officers responsible for making arrests.

Communications or conversations that are intercepted or recorded without the consent of all parties are generally not admissible in court, except in limited circumstances.

Simultaneous Sound and Video Recordings by Law Enforcement. The Privacy Act's provisions prohibiting the interception or recording of a private communication or conversation without the consent of all parties do not apply to sound recordings that correspond to video images recorded by video cameras mounted in law enforcement vehicles, as long as certain conditions are met. One of these conditions is that the recording device only be operated simultaneously with the video camera. Other conditions that must be met are:

- the officer wearing the recording device must be in uniform;
- the recording device may not be turned off by the officer during the operation of the video camera;
- any sound or video recording may not be duplicated and made available to the public until final disposition of criminal or civil litigation arising from the incident recorded;
- the sound recording may not be divulged or used by law enforcement for commercial purposes; and
- the officer must inform the person being recorded that a sound recording is being made, unless the person is being recorded under exigent circumstances, and the statement informing the person must be included in the recording. The officer is not required to inform the person of a video recording.

It is a gross misdemeanor to knowingly alter, erase, or wrongfully disclose any recording in violation of these restrictions. Sound recordings made under this provision are not inadmissible in court under the Privacy Act.

Summary: The requirement that sound recording equipment be operated simultaneously with video recording equipment that is mounted in a police vehicle is modified. Simultaneous operation is required only "when the operating system has been activated for an event." Once an event has been recorded, the audio equipment may be turned off and the operating system may be placed in its "pre-event" mode.

Votes on Final Passage:

House	93	4
Senate	43	0

Effective: June 7, 2006

HB 2879
C 312 L 06

Modifying the electronic administration of the real estate excise tax.

By Representative McIntire; by request of Department of Revenue.

House Committee on Finance
Senate Committee on Ways & Means

Background: The state imposes an excise tax of 1.28 percent on each sale of real property. The tax is usually collected by the treasurer of the county within which the property is located or in some circumstances by the Department of Revenue. Both the buyer and the seller are required to sign a real estate excise tax (REET) affidavit when a taxable transaction occurs. The affidavit must contain the names and addresses of the buyer and seller, a legal description of the property, a parcel number, and the property selling price.

The county treasurer collects fees when real estate transaction documents are filed with the county. These fees were increased by legislation enacted in 2005. When REET liability is zero or less than $5, a combined tax and fee of $5 is collected by the county treasurer. The fee portion of this charge is used to defray the costs of processing tax affidavits. In addition, if the REET is zero or less than $5, another $5 fee is collected and deposited in the county treasurer's REET Electronic Technology Account.

If the amount of REET due is greater than zero, an additional fee of $5 is collected by the county treasurer and remitted to the State Treasurer for deposit in the state REET Electronic Technology Account. The State Treasurer must distribute the moneys in the state account to county treasurers each month. Three-quarters of the money must be equally distributed among all counties, and the rest must be distributed to each county on a pro rata basis based on a county's population. The money received by the county treasurer must be used exclusively for the development and implementation of an electronic processing and reporting system for REET affidavits.

The two $5 technology fees going into the local and state REET technology accounts expire as of June 30, 2010. Any money remaining in the account on July 1, 2015, reverts to the County Capital Improvements Fund.

To the extent of moneys appropriated for the purpose, the Department of Revenue administers a grant program for counties to assist in the development, implementation, and maintenance of an electronic processing and reporting system for real estate excise tax affidavits. The grants may be used for new or improved computer hardware and software. No county is eligible for grants totaling more than $100,000.

County treasurers are required to pay state REET revenue to the State Treasurer by 5 pm on the last working day of each month.

Summary: Fees collected by the county treasurer for real estate transaction documents are revised. When REET liability is zero or less than $5, a combined tax and fee of $5 is collected by the county treasurer. The fee portion of this charge is used to defray the costs of processing tax affidavits. An additional fee of $5 is imposed on all real estate transactions, whether tax is due or not, and remitted to the State Treasurer for deposit in the state REET Electronic Technology Account. Distributions and use of money from this state account are not changed. The separate $5 fee for the county treasurer's REET Electronic Technology Account is eliminated.

If a county makes expenditures for electronic affidavit processing using money received from the state REET technology fee, those expenditures are not also eligible for reimbursement from the Department of Revenue grant program.

County treasurers are required to pay state REET revenue to the State Treasurer by noon on the last working day of each month.

Votes on Final Passage:

House	97	0
Senate	47	0

Effective: March 29, 2006

SHB 2880
C 278 L 06

Clarifying the taxation of insurers.

By House Committee on Finance (originally sponsored by Representative McIntire; by request of Department of Revenue).

House Committee on Finance

Background: Insurance companies must pay an insurance premiums tax to the state. The tax is imposed on net premiums received from the insurer, after deduction of premiums that are returned to policyholders. For ocean marine and foreign trade insurers, the tax is imposed on net underwriting profit, which is net premiums less net losses paid. The tax rate is 0.95 percent for ocean marine and foreign trade insurers and 2 percent for other insurers. Title insurers and fraternal benefit societies are exempt from this tax.

The statute imposing the insurance premiums tax states that the tax is in lieu of all other taxes, except taxes on real and tangible personal property, excise taxes on the sale, purchase or use of such property, and business and occupation tax imposed on nonprofit hospitals. A question has arisen as to whether the phrase "excise taxes on the sale, purchase or use of such property" means insurers are liable for retail sales taxes only on the sale of tangible personal property and not on the sale of services

or extended warranties. This phrase was added to the insurance premium tax statutes in 1949.

When the retail sales tax was first adopted in 1935, it applied only to sales of tangible personal property. However, since the late 1930s the Legislature has expanded the retail sales tax base to include some services. For example, services such as installation, cleaning, and repair of tangible personal property were the first services subjected to retail sales tax, in 1939. In 1941, construction services were subjected to retail sales tax. Additional services have been subjected to retail sales taxes in more recent years. In 2005, sales tax was applied to sales of extended warranties. The sale of an extended warranty can be viewed as a sale of an intangible contractual right rather than the actual sales of repair parts and services.

Summary: The Legislature finds that the insurance premiums tax is intended to be in lieu of any other tax imposed on insurers, but not in lieu of property taxes or retail sales taxes. The Legislature further finds that exemption of insurers from retail sales tax on services is unintentional, would be inequitable, and would be inconsistent with other excise tax statutes.

State and local excise taxes on the sale of services and extended warranties are expressly added to the statutory list of taxes that apply to insurers. This provision applies both prospectively and retroactively.

Votes on Final Passage:

House	55	43	
Senate	40	7	

Effective: March 28, 2006

ESHB 2884
C 279 L 06

Concerning the use of reclaimed water.

By House Committee on Economic Development, Agriculture & Trade (originally sponsored by Representatives Linville and McCoy).

House Committee on Economic Development, Agriculture & Trade
House Committee on Appropriations
Senate Committee on Water, Energy & Environment
Senate Committee on Ways & Means

Background: Reclaimed water is an effluent derived from a wastewater treatment system that has been treated to be suitable for a beneficial use that otherwise would not occur. Reclaimed water may be used for a variety of nonpotable water purposes, including irrigation, agricultural uses, industrial and commercial uses, streamflow augmentation, dust control, fire suppression, surface percolation, and discharge into constructed wetlands.

The Department of Health issues permits to water generators for commercial or industrial uses of reclaimed water. The Department of Ecology issues reclaimed water permits for land applications of reclaimed water. The departments of Health and Ecology were required to adopt a single set of standards, procedures, and guidelines for industrial and commercial uses and land applications of reclaimed water. These standards were adopted in the mid-1990s and resulted from consultation with an advisory committee of interested stakeholders.

Summary: By no later than the end of 2010, the departments of Ecology and Health are required to adopt rules for reclaimed water use. These rules must be adopted in consultation with an advisory committee made up of interested stakeholders.

The rules must address all aspects of reclaimed water use, including industrial uses, surface percolation, and stream flow augmentation. Two interim progress reports must be delivered to the Legislature prior to the final adoption in 2010.

Upon final adoption, the roles played by the Department of Health in the management and regulation of reclaimed water, other than graywater, will be conditional on the outcome of the rules adopted by the Department of Ecology. The Department of Health's new roles will be defined by the adopted rules.

The definition of "constructed treatment wetlands" is changed to exclude stormwater and wastewater and include polishing and aesthetics.

Votes on Final Passage:

House	78	19	
Senate	46	0	(Senate amended)
House	98	0	(House concurred)

Effective: June 7, 2006

HB 2897
C 101 L 06

Modifying the liquor licensee's caterer's endorsement to include passenger vessels.

By Representatives Condotta and Dunn.

House Committee on Commerce & Labor
Senate Committee on Labor, Commerce, Research & Development

Background: Restaurants that are licensed to sell alcohol may apply for a caterer's endorsement from the Washington State Liquor Control Board (Board). A caterer's endorsement allows the licensee to extend the on-premises license privilege, authorizing the sale and service of alcohol for an event at approved locations other than the licensed premises. If the event is open to the public, it must be sponsored by a non-profit. Otherwise, attendance at the event must be limited to members or invited guests of the sponsoring individual, society, or organization.

The locations where a licensee with a caterer's

endorsement may sell alcohol are limited to places not currently licensed by the Board, except that a person with a caterer's endorsement is permitted to operate on the premises of a domestic winery. Agreements between the domestic winery and the caterer must be in writing, contain no exclusivity clauses regarding the alcohol beverages to be served, and be filed with the Board. The domestic winery and the caterer must be separately contracted and compensated by the persons sponsoring the event for their respective services.

Summary: A person holding a caterer's endorsement from the Board is authorized to operate on the premises of any passenger vessel. Passenger vessel is defined to mean any boat, ship, vessel, barge, or other floating craft of any kind carrying passengers for compensation.

The passenger vessel and the caterer must be separately contracted and compensated by the persons sponsoring the event for their respective services. Agreements between the passenger vessel and the caterer must be in writing, contain no exclusivity clauses regarding the alcohol beverages to be served, and be filed with the Board.

Votes on Final Passage:

House 98 0
Senate 49 0

Effective: June 7, 2006

SHB 2898
C 217 L 06

Regulating distribution of communications by state employees.

By House Committee on State Government Operations & Accountability (originally sponsored by Representatives Hunt and Williams).

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

Background: The State Ethics Act prohibits public officials and employees from using, authorizing the use of, or acquiescing in the use of public facilities to assist a candidate or ballot proposition campaign. The term "facilities" includes stationery, postage, machines, equipment, employees, vehicles, office space, publications, and clientele lists.

Some lobbying activities using public funds are allowed. Officers and employees of an agency may communicate with a member of the Legislature, on that member's request, and may communicate to the Legislature requests for legislative action or appropriations that are necessary for the efficient conduct of public business or that are made in the performance of the officers' and employees' official duties. An agency may use public funds to communicate official agency business and to advocate the official position of the agency to any elected official or agency employee**.**

Summary: State employees may distribute communications from an employee organization or charitable organization to other state employees without violating the State Ethics Act so long as the communications do not support or oppose a ballot proposition or candidate for any public office.

An employee organization is defined as any organization, union, or association in which employees participate and that exists for the purpose of collective bargaining with employers or for the purpose of opposing collective bargaining or certification of a union.

Lobbying activity using public funds, except as already provided for by law, is not authorized.

Votes on Final Passage:

House 97 1
Senate 39 7

Effective: June 7, 2006

SHB 2908
C 146 L 06

Modifying the boundary provision for Island county.

By House Committee on Local Government (originally sponsored by Representatives Bailey, Schindler and Strow).

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

Background: The Oregon Territorial Legislature first created Island County on January 6, 1853. In 1891 the Washington Legislature modified the statute to establish county boundaries for Island County that include the following islands:

- Whidbey;
- Camano;
- Smith's Deception; and
- Ure.

Summary: The statutory boundary descriptions for Island County are revised to include Strawberry, Baby, Minor, and Kalamut Islands. The description for Smith's Deception is revised to Smith Island and Deception Island, and Ure is renamed to Ben Ure Island.

Votes on Final Passage:

House 98 0
Senate 46 0

Effective: June 7, 2006

EHB 2910
C 79 L 06

Requiring a study of environmental, natural science, wildlife, forestry, and agriculture education.

By Representatives Quall, Talcott, P. Sullivan, Shabro, Santos, Hunt, Anderson and Kenney.

House Committee on Education
Senate Committee on Early Learning, K-12 & Higher Education

Background: Environmental education teaches about science, conservation, and natural resources with an emphasis on solving the problems of human adaptation to the environment.

In addition to instruction provided in schools, many organizations and agencies offer environmental education programs: nature centers, zoos, aquariums, city and county departments of parks and recreation, non-profit organizations such as the Audubon Society and the Sierra Club, and state agencies such as the Department of Fish and Wildlife and the Department of Natural Resources. The Environmental Education Association of Washington (EEAW) is a statewide non-profit organization of educators that offers training, materials, and advocacy for high quality environmental education.

In 2005, the EEAW received a grant from a private foundation to develop a comprehensive environmental education plan for Washington. The EEAW intends that the comprehensive plan incorporate available research on how environmental education promotes career exploration for students, can be used to meet graduation requirements, or assists underserved youth.

Summary: The Office of the Superintendent of Public Instruction (OSPI) must conduct an environmental, natural science, wildlife, forestry, and agriculture education study in partnership with public and private entities that promote quality environmental education experiences. The study must provide empirical evidence, exemplary models, and recommendations about career development, service learning, graduation requirements, underserved youth, and professional development for community-based service organizations or state and local agencies. The study will provide findings and recommendations useful to the Washington state comprehensive environmental education plan, a public-private endeavor intended to ensure quality outdoor environmental education opportunities for every student, family, and community in Washington.

The OSPI will provide an interim update to the Legislature by December 1, 2006, and must complete the study no later than October 1, 2007.

Votes on Final Passage:

House	79	19
Senate	41	4

Effective: June 7, 2006

SHB 2917
C 147 L 06

Regarding accessory uses on agricultural lands.

By House Committee on Local Government (originally sponsored by Representatives P. Sullivan, Kristiansen, Simpson, Linville, Blake and Ericks; by request of Department of Agriculture).

House Committee on Local Government
Senate Committee on Agriculture & Rural Economic Development

Background: Growth Management Act. The Growth Management Act (GMA) establishes a comprehensive land use planning framework for county and city governments in Washington. Counties and cities meeting specific population and growth criteria are required to comply with the major requirements of the GMA. Counties not meeting these criteria may choose to plan under the GMA. Twenty-nine of 39 counties, and the cities within those 29 counties, are required to, or have chosen to, comply with the major requirements of the GMA.

Regulation of Agricultural Lands. The GMA requires all local governments to designate agricultural, forest, and mineral resource lands of long-term significance. The GMA jurisdictions must also adopt development regulations to assure the conservation of these designated natural resource lands. "Agricultural land" is defined by the GMA, in part, to include land primarily devoted to the commercial production of specified products, such as horticultural, viticultural, floricultural, vegetable, or animal products. "Agricultural lands of long-term commercial significance" are characterized as those lands without urban growth characteristics and which have long-term significance for the commercial production of food or other agricultural products.

Innovative Zoning Techniques for Agricultural Lands of Long-Term Commercial Significance. In order to comply with GMA requirements, counties or cities may use a variety of innovative zoning techniques in areas designated as agricultural lands of long-term commercial significance. The innovative zoning techniques should be designed to conserve agricultural lands and encourage the agricultural economy. Such zoning techniques should also encourage property owners to limit nonagricultural uses to lands with poor soil or that are otherwise ill-suited to agricultural uses. One of the authorized zoning designations is "agricultural zoning," which has the following characteristics:

- limits the density of development;
- restricts or prohibits nonfarm uses of agricultural land; and
- may allow certain *accessory uses* that support, promote, or sustain agricultural operations or production.

Accessory Uses of Agricultural Lands of Long-Term Commercial Significance. The accessory uses permitted

under an agricultural zoning scheme must comply with the following criteria:

- implementation of such uses must not interfere with natural resource land uses;
- the uses must have a functional relationship to the growing of crops, or raising of animals;
- commercial or retail uses must be for the primary purpose of producing, storing, or selling regionally produced agricultural products or agriculturally-related experiences;
- commercial and retail uses must be for the primary purpose of selling products or services produced on-site; and
- the uses may operate out of existing or new buildings with parking and other related uses, provided that such uses are consistent with the size and scale of existing agricultural buildings on the site and do not otherwise convert agricultural land to nonagricultural uses.

Commercial or Retail Accessory Uses. Commercial or retail accessory uses which are compatible with agricultural uses may be permitted, and include the following:

- storage and refrigeration of regional agricultural products;
- production, sales, and marketing of regional, value-added agricultural products;
- supplemental sources of income that support and sustain on-farm agricultural operations;
- support services that facilitate the production and distribution of agricultural products; and
- off- farm and on-farm sales or marketing of predominately regional agricultural products and experiences, as well as locally made arts and crafts.

Summary: Counties and cities are provided with greater flexibility with respect to the implementation of agricultural zoning schemes governing the use of agricultural lands of long-term commercial significance. This increased flexibility is accomplished through the removal of many specified restrictions on accessory uses and replacing them with more permissive general guidelines governing the types of accessory uses that may be conducted on designated agricultural lands. An example of this shift is the elimination of the requirement that accessory uses be functionally related to the growing of crops or raising of animals and replacing it with a more general standard requiring that such uses support the continuation of the agricultural use of the property and neighboring properties. In addition, the guidelines created by the act explicitly distinguish "agricultural accessory uses" from "nonagricultural accessory uses."

Authorized "agricultural accessory uses" may include, but are not limited to, the following:

- the storage, distribution, and marketing of regional agricultural products; and
- the production, marketing, and distribution of value-added agricultural products, including the support services necessary to facilitate these activities.

"Nonagricultural accessory uses" are permitted provided they are consistent with the size, scale, and intensity of the existing agricultural use of the property and the existing buildings on the site. However, nonagricultural accessory uses and related development may not: (1) be located outside the general area already developed for buildings and residential uses; or (2) convert more than one acre of agricultural land to nonagricultural uses.

The list of specifically authorized types of commercial or retail accessory uses is eliminated.

Votes on Final Passage:

House	98	0	
Senate	45	1	(Senate amended)
House	97	0	(House concurred)

Effective: June 7, 2006

ESHB 2925
C 260 L 06

Concerning assisted living medicaid minimum occupancy of sixty percent or greater.

By House Committee on Appropriations (originally sponsored by Representatives Santos, Morrell, Bailey, Cody, Hinkle, Pettigrew, Linville and Schual-Berke).

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

Background: The Department of Social and Health Services (Department) pays assisted living facilities a daily rate. The Department also pays a capital add-on rate to facilities that meet construction requirements specified in the Washington Administrative Code and serve a minimum number of Medicaid clients. The formula for determining eligibility for the capital add-on rate is contingent on the total amount budgeted for this purpose and is adjusted twice annually.

Summary: The Department of Social and Health Services is required to establish a capital add-on rate for assisted living facilities that have a Medicaid minimum occupancy percentage of 60 percent or greater. The Department of Social and Health Services is required to determine the facility's Medicaid occupancy percentage using the last six month's Medicaid resident days from the preceding calendar year divided by the product of all its licensed boarding home beds, regardless of use, times calendar days for the six-month period. Managed care clients will be included in the calculation of Medicaid occupancy. This capital add-on rate applies to rates established on or after July 1, 2006.

Votes on Final Passage:

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

Effective: July 1, 2006

HB 2932
C 39 L 06

Establishing a catastrophic disability allowance under the law enforcement officers' and fire fighters' retirement system, plan 2.

By Representatives Darneille, Curtis, Simpson, Conway, Hinkle, Williams, Ericks, Sells, Rodne, McDonald, Kilmer and Green; by request of LEOFF Plan 2 Retirement Board.

House Committee on Appropriations
Senate Committee on Ways & Means

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

If a member becomes disabled for a non-duty related reason, a member may receive a retirement allowance based on the 2 percent of average final salary formula that is actuarially reduced from age 53 to the age at disability. A member of LEOFF 2 who leaves service as a result of a line of duty disability or after earning 10 or more years of service may also request a refund of 150 percent of the member's accumulated contributions. A member with fewer than 10 years of service may request 100 percent of the member's contributions. In either case, a member who requests a refund of contributions is ineligible for a disability or service retirement allowance.

Legislation enacted in 2004 increased disability benefits for LEOFF 2 members disabled in the line of duty beyond those provided for non-duty disabilities. As a result of the legislation, a member of LEOFF 2 who leaves service as a result of a line of duty disability is eligible to receive a disability retirement allowance of at least 10 percent of final average salary, plus 2 percent per year for each year of service beyond five. Another bill enacted in 2005 removed the actuarial reduction for the difference between age 53 and age at disability that previously applied to the part of a member's line-duty disability benefit in excess of the base 10 percent of final average salary.

In addition to disability benefits from the retirement system, members of LEOFF 2 (unlike members of LEOFF 1) are eligible for job-related disability, medical, and death benefits from the workers' compensation system administered by the Department of Labor and Industries. Some members of LEOFF 2 are also covered by Federal Social Security Administration benefits, and disabled members may be eligible to receive benefits from that system.

Disabled LEOFF 2 members may also be eligible for a lump-sum disability payment from the Federal Public Safety Officers' Disability Benefit program that currently provides a lump-sum benefit of $283,385, offset by worker' compensation lump-sum payments. LEOFF 2 members serving as Department of Fish and Wildlife (DFW) Enforcement Officers may also be eligible upon disability for a special disability benefit of 50 percent of salary, paid by DFW.

Summary: A member of the Law Enforcement Officers' and Fire Fighters' Retirement System, Plan 2 (LEOFF 2) who is totally disabled in the line of duty is entitled to a disability allowance equal to 70 percent of final average salary. The total disability benefit is reduced to the extent that in combination with certain workers' compensation payments and Social Security disability benefits, the disabled member would receive more that 100 percent of final average salary. Department of Fish and Wildlife Enforcement Officers' compensation insurance benefits are also reduced for any disability benefits received from LEOFF 2.

Total disability is defined as a member's inability to perform any substantial gainful activity due to a physical or mental condition that may be expected to result in death or last for at least 12 months. Substantial gainful activity is defined as average earnings of more than $860 per month, adjusted annually based on Federal Social Security standards.

The Department of Retirement Systems may require a person to submit to periodic medical examinations and disclose financial records as a condition of continued eligibility. In the event that a totally disabled member's earnings exceed the substantial gainful activity threshold, a member's benefit will be converted to a line-of-duty disability retirement allowance.

Votes on Final Passage:

House	96	0
Senate	40	0

Effective: March 14, 2006

SHB 2933
C 351 L 06

Addressing death benefit payments for law enforcement officers' and fire fighters' retirement system, plan 2.

By House Committee on Appropriations (originally sponsored by Representatives P. Sullivan, Curtis, Simpson, Conway, Hinkle, Kenney, Williams, Ericks, Sells, Rodne, McDonald, Kilmer and Green; by request of LEOFF Plan 2 Retirement Board).

House Committee on Appropriations
Senate Committee on Ways & Means

Background: Survivors of Law Enforcement Officers' and Fire Fighters' Plan 2 (LEOFF 2) members who die before retirement may be eligible for several benefits from LEOFF 2. If a LEOFF 2 member dies with less than 10 years of service, the beneficiary receives the member's accumulated contributions. The beneficiary of a member with more than 10 years of service may choose 150 percent of the member's contributions or a monthly benefit calculated as if the member had selected a joint-and-100 percent survivor option and had retired on the date of death.

Additional benefits are available to survivors of LEOFF 2 members who die in the line of duty. Survivors of LEOFF 2 members who die in the line of duty have received a $150,000 duty-related death benefit payable from their members' respective retirement plans since 1996. In addition, public safety officers are eligible under the federal Public Safety Officers Benefit Act of 1976 for an inflation-indexed lump-sum death benefit of approximately $283,000.

The spouse or dependents of an individual covered by Social Security may be eligible for a death benefit if they meet age, income, or other restrictions. The age eligibility for the Social Security death benefit is based on an age 65 eligibility for full benefits, and reduced benefits are available beginning at age 60. The size of the Social Security death benefit is dependent on the contributions the deceased made to Social Security during the member's career. Many members of LEOFF 2 do not participate in Social Security.

A workers' compensation death benefit may also be payable from the Department of Labor and Industries for death resulting from injury sustained in the course of employment. A lump sum benefit may be payable from the Department of Labor and Industries for burial expenses, as well as a monthly benefit of 60 percent of gross wages up to 120 percent of the state's average wage (about $3,900 for fiscal year 2004).

Beginning in 1987, the Legislature enacted presumptions that when certain diseases were contracted by fire fighters they were caused by job-related exposure. For these "occupational diseases," the work-related cause is established for workers' compensation benefits purposes. Initially, the occupational disease presumption applied only to respiratory disease, but in 2002 the Legislature expanded the list of occupational diseases for fire fighters to include more conditions, including other exposures to smoke or toxic substances, certain types of cancer, and infectious diseases.

Summary: The survivor of a LEOFF 2 member or retiree who dies as a result of occupational disease arising from employment is eligible to receive a $150,000 death benefit, like survivors of LEOFF 2 members or retirees who die from injuries sustained in the course of employment.

Votes on Final Passage:

House	96	0
Senate	48	0

Effective: June 7, 2006

E3SHB 2939
C 171 L 06

Establishing the energy freedom program.

By House Committee on Capital Budget (originally sponsored by Representatives Grant, Dunshee, Linville, Kessler, Upthegrove, Kilmer, Ericks, Hasegawa, P. Sullivan, Santos, Green, Springer, Conway, Simpson and Hudgins).

House Committee on Technology, Energy & Communications
House Committee on Appropriations
House Committee on Capital Budget
Senate Committee on Water, Energy & Environment
Senate Committee on Ways & Means

Background: Oil Production and Consumption in the U.S. According to the Energy Information Administration (EIA), in 2002 the United States consumed 19.656 million barrels of petroleum (crude oil and petroleum products) per day, or about one-quarter of total world oil production. More than half was imported oil. The EIA has projected that by 2025, total petroleum consumption in the U.S. will be approximately 28.3 million barrels per day.

While consumption of petroleum in the U.S. is increasing, oil production has been decreasing steadily since 1970. According to the EIA Annual Energy Outlook for 2004, U.S. petroleum production is expected to decrease from 9.2 million barrels per day in 2002 to 8.6 million barrels per day by 2025, while consumption is expected to rise from 19.6 barrels per day in 2002 to 28.3 million per day by 2024, which represents approximately a 44 percent increase in consumption.

State Loan Programs for Renewable Energy. According to a 2002 study by the National Renewable Energy Laboratory, there are at least 21 active loan programs in 18 states that provide low-cost financing for renewable energy. Some programs are funded by revolv-

ing loan funds that were established with petroleum overcharge settlements, while others are funded through annual appropriations, the sale of bonds, or air-quality noncompliance penalty fees. Total funding for state loan programs range from $200,000 to $200 million per year.

Summary: Energy Freedom Program. The Energy Freedom Program is established within the Department of Agriculture. The stated legislative purpose of the Energy Freedom Program is to develop a viable bioenergy industry, to promote public research and development in bioenergy sources and markets, and to support a viable agriculture industry to grow bioenergy crops.

Criteria for Awarding Financial Assistance. The Department of Agriculture, in cooperation with the Department of Community, Trade, and Economic Development, may award financial assistance to an applicant if the Director of the Department of Agriculture finds that:the project will convert farm products or waste directly into electricity or fuel or other coproducts associated with such conversion;the project demonstrates technical feasibility and directly assists in moving a commercially viable project into the marketplace;the facility will produce long-term economic benefits to the state;the project does not require continuing state support;the assistance will result in jobs or higher incomes for the citizens of the state;the state is provided an option to purchase a portion of the fuel or feedstock to be produced by the project;the project will increase energy independence or diversity;the project will use feedstocks produced in the state, if applicable;any product produced by the project will be suitable for its intended use, meet accepted national or state standards, and will be stored in a safe and environmentally sound manner; andthe application provides for adequate financial reporting.

If the project is a research and development project, it must be independently reviewed by a peer review committee and the findings of that review must be provided to the director of the Department of Agriculture.

Contractual Agreements. The Director of the Department of Agriculture must enter into agreements with approved applicants. The agreement must include provisions to protect the state's investment, including a requirement that the applicant enter into contracts with any partners that may be involved in the use of the financial assistance provided under this program.

Limitations. The Director of the Department of Agriculture may award assistance in an amount of up to $5 million, provided that the assistance does not constitute more than 50 percent of the total project funding. The Director may suspend or cancel its financial assistance if a recipient fails to make reasonable progress towards completing a project, or the recipient has made misrepresentations in any information furnished to the director in connection with the project.

Energy Freedom Account. The Energy Freedom Account (Account) is created in the State Treasury. Funds from the Account may only be spent after appropriation. Expenditures may be used only for assistance for projects that are consistent with this act. Administrative costs may not exceed 3 percent of the total funds available for the Energy Freedom Program.

Any funds remaining in the Account after June 30, 2016, will revert to the State General Fund.

Report. The Director must report to the Legislature and to the Governor on an annual basis on the status of the Energy Freedom Program.

Public Disclosure. Financial and commercial information supplied by applicants under this act is exempt from public disclosure.

The Act expires on June 30, 2016.

Votes on Final Passage:

House 68 30
Senate 48 0 (Senate amended)
House 66 29 (House concurred)

Effective: June 6, 2006
July 1, 2006 (Sections 8 and 10)

ESHB 2951
C 40 L 06

Creating a firearms training certificate program for retired law enforcement officers.

By House Committee on Judiciary (originally sponsored by Representatives Campbell, Morrell, McCune and Green).

House Committee on Judiciary
Senate Committee on Judiciary

Background: In 2004, the U.S. Congress enacted the Law Enforcement Officers Safety Act, which authorizes qualified law enforcement officers, and qualified retired law enforcement officers, to carry a concealed firearm in any state under certain conditions. The federal act specifically preempts conflicting state laws, except those state laws that allow private persons or entities to restrict concealed firearms on their property or restrict the possession of firearms on government property.

With respect to retired law enforcement officers, the federal law states that a "qualified retired law enforcement officer" may carry a concealed weapon in any state if the retired officer meets certain criteria and carries both a photographic identification issued by the agency from which the officer retired and a firearms certification issued by the state in which the retired officer resides.

The state firearms certification must indicate that the retired officer has been found by the state to meet the state's standards for training and qualification for active law enforcement officers to carry a firearm of the same type as the concealed firearm. This certification is effective for one year.

A "qualified retired law enforcement officer" under the federal act is an individual who:

- retired in good standing from a public agency as a law enforcement officer, other than for reasons of mental instability;
- before retirement was authorized to engage in the prevention, detection, and investigation of any person for a violation of law;
- was either regularly employed as a law enforcement officer for 15 or more years, or retired from service due to a service-connected disability;
- has a vested right to benefits under the agency's retirement plan;
- is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance; and
- is not prohibited by federal law from receiving a firearm.

Under Washington law, generally a person may carry a concealed pistol only if the person has a concealed pistol license. To obtain a Washington concealed pistol license, a person must apply to a local law enforcement agency, pay a fee, and undergo a state and federal criminal history background check, including a fingerprint check. In addition, certain qualifications must be met before a person may be issued a concealed pistol license.

There are a number of exemptions from Washington's concealed pistol license requirements. One of these exemptions applies to retired law enforcement officers who retired for service or disabilities (other than mental or stress-related) from a Washington law enforcement agency. In order to qualify for this exemption, the retired officer must have documentation from a Washington law enforcement agency that he or she retired for service or physical disability. A retired officer is not eligible for the exemption if the retired officer has committed a crime making the retired officer ineligible for a concealed pistol license.

Summary: A process is created for issuing firearms certificates to retired law enforcement officers who are Washington residents in order to satisfy the certification requirements contained in the federal Law Enforcement Officers Safety Act of 2004.

The Washington Association of Sheriffs and Police Chiefs must develop a firearms certificate form to be used by local law enforcement agencies when issuing firearms certificates to retired law enforcement officers.

A retired law enforcement officer may apply to a local law enforcement agency for a firearms certificate. The law enforcement agency may issue the certificate to the retired officer if the retired officer: (1) has been qualified or otherwise found to meet the standards established by the Criminal Justice Training Commission for firearms qualifications for active law enforcement officers in the state; and (2) has undergone a background check and is not ineligible to possess a firearm. The firearms qualificatio2939n may be provided either by the local law enforcement agency or by an individual or entity certified to provide firearms training.

The firearms certificate is valid for a period of one year. An applicant for the firearms certificate must pay a fee of $36, plus additional charges imposed by the Federal Bureau of Investigation that are passed on to the applicant. The fee is distributed in the same manner as the fee for a concealed pistol license. The retired law enforcement officer is also responsible for paying the costs of the firearms qualification.

Votes on Final Passage:

House	98	0
Senate	44	0

Effective: June 7, 2006

SHB 2958

C 148 L 06

Penalizing persons who violate rules concerning the use of nontoxic shot.

By House Committee on Natural Resources, Ecology & Parks (originally sponsored by Representatives B. Sullivan, Buck, Kessler, Orcutt, Blake, Kretz, Hunt, Chandler, Upthegrove and Dickerson).

House Committee on Natural Resources, Ecology & Parks

Senate Committee on Natural Resources, Ocean & Recreation

Background: State Regulation of Toxic Shot. The Legislature has vested the Fish and Wildlife Commission (Commission) with the authority to adopt, amend, and repeal rules that deal with the equipment and methods that may be used in the state for taking wildlife and fish. The Commission has exercised this authority to prohibit the use of toxic shot in many of the state's wildlife areas and when hunting for waterfowl, coot, or snipe.

Unlawful Hunting of Birds. The crime of unlawful hunting of birds may be charged if an individual violates any Commission rule addressing the manner or method of hunting wild birds. The unlawful hunting of birds is prosecuted as a misdemeanor.

Misdemeanors are punishable by up to 90 days in jail and a fine of up to $1,000.

Fish and Wildlife Enforcement Reward Account. The Fish and Wildlife Enforcement Reward Account receives the revenues generated from the assessment of criminal wildlife penalties relating to the unlawful hunting of big game. Funds in the account may be used by the Commission for wildlife enforcement, including the investigation and prosecution of fish and wildlife offenses and providing rewards to informants.

Summary: Individuals age 16 or older who are convicted of the unlawful hunting of birds because of a failure to abide by a Commission rule regarding the use of

non-toxic shot face penalties in addition to the standard penalties for a misdemeanor. The additional penalties include:

- a two-year revocation of the person's small game hunting privileges; and
- a $1,000 criminal wildlife penalty assessment.

The convicting court must apply the full criminal wildlife penalty assessment in addition to any other fines or sentences. All assessments collected must be deposited into the Fish and Wildlife Enforcement Reward Account.

Votes on Final Passage:

House 98 0
Senate 39 10

Effective: June 7, 2006

2SHB 2964
C 265 L 06

Creating the department of early learning.

By House Committee on Appropriations (originally sponsored by Representatives Kagi, Talcott, Walsh, Quall, Haler, Shabro, Fromhold, Kessler, Hunt, Appleton, Lantz, Darneille, Kenney, Chase, Hasegawa, Sells, Roberts, Hunter, Moeller, McCoy, Santos, Green and Simpson; by request of Governor Gregoire).

House Committee on Children & Family Services
House Committee on Appropriations
Senate Committee on Early Learning, K-12 & Higher Education
Senate Committee on Ways & Means

Background: Early learning and child care programs in Washington are administered or regulated by three state agencies. The Department of Social and Health Services (DSHS) Division of Child Care and Early Learning (DCCEL) licenses child care homes and centers, develops policy and procedures for the Working Connections Child Care Program, and administers the Head Start Program. The Department of Community Trade and Economic Development (CTED) administers Washington's Early Childhood Education and Assistance Program. The Office of the Superintendent of Public Instruction (OSPI) oversees child care and early learning programs, including special education for three- and four-year olds, programs promoting family literacy, and nutrition assistance for child care.

The Washington Early Learning Council (Council) was established in the 2005 legislative session for the purpose of providing vision, leadership, and direction to the improvement, realignment, and expansion of early learning programs and services for children from birth to five years of age. The goal of the Council is to build upon existing efforts and recommend new initiatives in order to better meet the early learning needs of children and their families. The Council also serves as the advisory committee for early learning under Washington Learns, Governor Gregiore's initiative to comprehensively examine all sectors of the state's education system. In December 2005, Washington Learns issued its first set of recommendations, including a recommendation for the creation of a cabinet-level department of early learning.

Summary: The Department of Early Learning (Department) is established as an executive branch agency whose director is appointed by and serves at the pleasure of the Governor subject to confirmation by the Senate. The Department's primary duties are to implement early learning policy, to coordinate, consolidate, and integrate child care and early learning programs to promote an efficient use of funds. The Director of the Department will actively participate in a non-governmental public-private partnership focused on supporting government's investments in early learning and promoting school readiness and success.

Early Learning Defined. "Early learning" is defined to include: programs and services for child care; state, federal, private, and nonprofit preschools; child care subsidies; child care resource and referral; parent education and support; and training and professional development for early learning professionals. The Department's early learning programs must be designed to respect and preserve the ability of parents and legal guardians to direct the education and development of their children.

Transfer of Programs and Functions. The following programs and functions within the DSHS, OSPI, and CTED are transferred to the Department:

- child care licensing and quality;
- child care tiered reimbursement system;
- child care career and wage ladder;
- Child Care Partnership employer liaison;
- Child Care Resource and Referral Network;
- Early Childhood Education Assistance Program;
- Head Start collaboration;
- Early Learning Reading Initiative; and
- Working Connections Child Care.

The income eligibility determination and provider payment functions for Working Connections child care will remain with the Economic Services Administration within the DSHS. Beginning in the 2007-2009 biennium, spending authority for Working Connections Child Care moneys will be transferred from the DSHS to the Department. Appropriations and staff associated with the programs listed, except appropriations for the DSHS, will be transferred to the Department. Appropriations for the programs transferred from the DSHS to the Department will be transferred through interagency agreement.

Reports, Studies, and Evaluation. By November 15, 2006, in collaboration with the Early Learning Council, the Department will make recommendations to the Legislature and the Governor regarding:

1) coordination and collaboration with K-12 and other education programs at state and local levels;
2) practices to encourage local and community public-private partnerships;
3) the Department's relationship with the statewide public-private partnership;
4) the Department's internal governance; and
5) transition of any additional programs and responsibilities.

Every two years the Department must report to the Governor and the Legislature regarding the effectiveness of its programs in improving early childhood education. The first report must include program objectives and identified performance measures for evaluating progress, and a plan for commissioning a longitudinal study comparing the kindergarten readiness of children participating in the Department's programs with the readiness of other children.

By July 10, 2010, the Joint Legislative Audit and Review Committee must evaluate the implementation and operation of the Department to assess the extent to which:

1) services and programs that previously were administered separately have been effectively integrated;
2) reporting and monitoring activities have been consolidated and made more efficient;
3) consolidation has resulted in administrative efficiencies within the Department;
4) child care and early learning services are improved;
5) subsidized child care is available;
6) subsidized child care is affordable;
7) the Department has been an effective partner in the public-private partnership;
8) procedures have been put in place to respect parents and legal guardians and to provide them the opportunity to participate in the development of policies and program decisions affecting their children; and
9) the degree and methods by which the Department conducts parent outreach and education.

Votes on Final Passage:

House	79	19	
Senate	47	2	(Senate amended)
House	81	15	(House concurred)

Effective: July 1, 2006

HB 2972

C 100 L 06

Determining community rates for health benefit plans.

By Representatives Clibborn, Hinkle, Curtis, B. Sullivan, Cody, Moeller, P. Sullivan, Kenney, Kilmer and Jarrett.

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

Background: Many part-time workers lack health insurance. Workers who work for multiple employers have difficulty obtaining employer-sponsored health insurance coverage. Employers of part-time employees are not required to provide health insurance coverage.

Summary: Health benefit plans may be offered to individuals who are part of a purchasing pool consisting of 500 people in the same industry. The plans will allow contributions from more than one employer and will have premiums calculated using an adjusted community rating method that spreads financial risk across the entire purchasing pool the individual belongs to. This act will not be implemented until a federal opinion is received by the Insurance Commissioner that the provisions of this act comply with federal law.

Votes on Final Passage:

House	98	0	
Senate	44	0	(Senate amended)
House	95	0	(House concurred)

Effective: June 7, 2006

SHB 2973

PARTIAL VETO

C 114 L 06

Creating a career and technical high school graduation option for students meeting state standards in fundamental academic content areas.

By House Committee on Education (originally sponsored by Representatives Priest, Ormsby, Kenney, Kagi, Hasegawa, P. Sullivan, Moeller, Santos and Springer).

House Committee on Education
House Committee on Appropriations
Senate Committee on Early Learning, K-12 & Higher Education

Background: High School Graduation Requirements. Most graduation requirements are established by the State Board of Education (SBE). The SBE requirements are:

1) accumulate 13.5 credits in the content areas of English, math, science, social studies, health and fitness, arts, and occupational education, plus an additional 5.5 credits of electives;
2) complete a high school and beyond plan; and
3) complete a culminating project.

Local school districts may adopt additional courses or other requirements. School districts also determine whether and to what extent career and technical courses are equivalent to academic courses and meet graduation requirements in core academic areas.

Beginning with the graduating class of 2008, most students will also be required to obtain a Certificate of Academic Achievement (CAA) to obtain a diploma.

Students must meet state standards in reading, writing, and mathematics on the high school Washington Assessment of Student Learning (WASL) to earn a CAA. Science will be added in 2010.

Career and Technical Education. The Office of the Superintendent of Public Instruction (OSPI) establishes standards for and reviews and approves all career and technical education (CTE) programs offered by local school districts. The standards distinguish between exploratory and preparatory courses. In preparatory courses, students are expected to demonstrate a level of competency that includes application of the Essential Academic Learning Requirements to meet industry defined standards for a specific career, demonstrate leadership and employability skills, and be employment ready or prepared for postsecondary options. The occupational skills in an approved program are written based on nationally or locally recognized industry standards.

A number of CTE programs lead to a credential or certificate recognized by the appropriate industry as a benchmark level of knowledge and skills.

Summary: The SBE is required to reevaluate graduation requirements for students in vocationally intensive and rigorous CTE programs to ensure that students enrolled in these programs have the opportunity to earn their CAA, complete the CTE program, and complete other state and local graduation requirements. The SBE must report its findings and recommendations to the Legislature by December 1, 2007.

Each high school or school board must adopt course equivalencies for high school CTE courses using a course equivalency approval procedure adopted by the board. The equivalency may be for whole or partial credit. Career and technical courses determined to be equivalent to academic core courses must be accepted as meeting core requirements, including graduation requirements, if the courses are recorded on the student's transcript using the academic department designation and title.

The SPI must develop an objective alternative assessment for career and technical education programs, which must be comparable in rigor to the skills and knowledge that a student must demonstrate on the WASL. The alternative assessment includes an evaluation of a collection of work samples prepared and submitted by an applicant who is enrolled in a CTE program. The SPI must develop guidelines for the collection of work samples in consultation with community and technical colleges, employers, the Workforce Training and Education Coordinating Board, apprenticeship programs, and other regional and national experts in career and technical education.

Votes on Final Passage:

House	98	0	
Senate	47	0	(Senate amended)
House	95	0	(House concurred)

Effective: June 7, 2006

Partial Veto Summary: The Governor vetoed the section requiring the SPI to develop an objective alternative assessment to the WASL for students in career and technical education programs.

VETO MESSAGE ON SHB 2973

March 20, 2006

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

Ladies and Gentlemen:

I am returning, without my approval as to Section 5, Substitute House Bill No. 2973 entitled:

"AN ACT Relating to creating a career and technical high school graduation option for students meeting state standards in fundamental academic content areas."

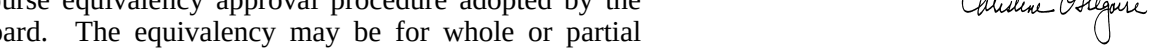
This bill authorizes local school boards to develop approval processes for high school course equivalencies. Requirements are established for students in career and technical education programs who may earn whole or partial academic credits. Further, the State Board of Education is directed to reevaluate the graduation requirements for students enrolled in vocational and technical education courses. Topics of the evaluation are enumerated. Findings and any recommendations are to be reported by December 1, 2007.

I have vetoed Section 5, which provides for the development of objective alternative assessments for career and technical education programs. The provisions and language of this Section are duplicative of provisions for alternative assessments for career and technical education programs found in SB 6475.

For this reason, I have vetoed Section 5 of Substitute House Bill 2973.

With the exception of Section 5, Substitute House Bill No. 2973 is approved.

Respectfully submitted,



Christine O. Gregoire
Governor

SHB 2974
C 99 L 06

Modifying provisions with respect to disciplining health professions.

By House Committee on Health Care (originally sponsored by Representatives Cody, Morrell and Moeller).

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

Background: The Uniform Disciplinary Act (UDA) governs disciplinary actions for all 57 categories of credentialed health care providers. The UDA defines acts of unprofessional conduct, establishes sanctions for such acts, and provides general procedures for addressing complaints and taking disciplinary actions against a credentialed health care provider. Responsibilities in the disciplinary process are divided between the Secretary of

Health (Secretary) and the 16 health profession boards and commissions (collectively known as "disciplining authorities") according to the profession that the health care provider is a member of and the relevant step in the disciplinary process.

After investigating a complaint or report of unprofessional conduct, the appropriate disciplining authority must decide what disciplinary action is warranted by the evidence and the nature of the violation. The case may be closed without further action, pursued through an informal action in the form of a statement of allegations, or pursued through a formal action in the form of a statement of charges. Upon a finding of an act of unprofessional conduct, the Secretary or the board or commission decides which sanctions should be ordered. In the selection of a sanction, the first consideration is what is necessary to protect or compensate the public and the second consideration is what may rehabilitate the license holder or applicant.

Summary: Reporting Requirements. The Secretary is required to establish rules for all license holders to report when another license holder has committed unprofessional conduct or may not be able to practice safely due to a mental or physical condition. The reporting requirement does not apply to peer review committees, quality improvement committees, and similar professional review committees while the matter is under investigation. In addition, impaired practitioner programs and voluntary substance abuse monitoring programs are not required to report unprofessional conduct while the license holder is enrolled in the program, is actively participating in the program, and does not pose a threat to the public.

License holders are required to report if they have been disqualified from participating in Medicare or Medicaid. The disciplining authority must initiate an investigation into every such disqualification.

Prosecuting attorneys must notify the Washington State Patrol of any guilty plea or conviction for certain felonies (homicide, assault, kidnapping, or sex offenses). The Washington State Patrol must send the information to the Department of Health (Department). The Department must identify any license holders on the list and forward the information to the appropriate disciplining authority.

License Suspension Authority. Individuals who have, or who apply for, a license or temporary practice permit and who are prohibited from practicing in another state, federal, or foreign jurisdiction due to the commission of an act of unprofessional conduct that is substantially equivalent to an act of unprofessional conduct in Washington are prohibited from practicing in Washington. The prohibition applies until the disciplining authority has completed summary suspension proceedings on the matter.

Where a license holder has committed unprofessional conduct as a result of substance abuse and he or she does not consent to referral to a substance abuse treatment program or does not successfully complete the program, his or her license must be suspended until the disciplining authority, in consultation with the director of the voluntary substance abuse monitoring program, has determined that he or she can practice safely.

Consideration of Prior Disciplinary Activities. When deciding whether or not to investigate a complaint, the disciplining authority must consider any prior complaints, findings of fact, stipulations to informal disposition, or actions taken by other state disciplining authorities.

Sanctioning Determinations. It is specified that, when making a determination of appropriate sanctions for a license holder, safeguarding the public's health and safety is the paramount responsibility of the disciplining authority.

Health Professions Account. In each of the next three biennial budget requests for appropriation from the Health Professions Account, the Department must specify the number of additional investigators and attorneys necessary to achieve a staffing level that can respond to the disciplinary workload promptly, competently, and comprehensively and the cost associated with supporting them. The Department must establish a formula for identifying such a staffing level based upon prior experience with staff levels compared to the number of providers, complaints, investigations, and other relevant factors. Each biennial budget request must specify the methodology used to determine the additional staffing level. The reporting requirements expire July 1, 2011.

The Joint Legislative Audit and Review Committee, in consultation with the Department, must report to the Legislature by December 1, 2010, with a recommended formula for determining disciplinary staffing levels.

Votes on Final Passage:

House	61	37	
Senate	45	3	(Senate amended)
House	65	30	(House concurred)

Effective: June 7, 2006
July 1, 2006 (Section 7)

HB 2975
C 220 L 06

Granting an exemption under the state securities act.

By Representatives Newhouse, Kirby and Dunn.

House Committee on Financial Institutions & Insurance
Senate Committee on Financial Institutions, Housing & Consumer Protection

Background: The Department of Financial Institutions (DFI), through its Securities Division, is responsible for the regulation of the securities market in this state. The

mission of the Securities Division is to protect Washington residents from dishonest or fraudulent practices by people selling investments. The Securities Division utilizes a variety of regulatory and enforcement tools, including:

- registration requirements for securities, franchise, and business opportunity offerings;
- licensing and examination of broker-dealers and investment advisers; and
- investigations based upon complaints.

The State Securities Act (Act) requires registration of people involved in certain practices, including broker-dealers, salespersons, investment advisers, and investment adviser salespersons. The Act requires the registration of certain offerings. Additionally, certain offerings are defined as "securities" and must be registered.

There are exemptions from registration for certain securities. Additional provisions exempt both a specified transaction and the persons involved in the transaction from registration, notice, filing and fee requirements.

One such exempt transaction is a transaction by a mutual or cooperative association that:

- meets certain conditions regarding advertising;
- involves an instrument or interest related to a member or patron of the association; and
- the instrument or interest is nontransferable or meets a specific exception.

The specific exceptions to the nontransferable requirement are:

- death;
- operation of law;
- bona fide transfer for security purposes only to the association, a bank, or other financial institution;
- intra-family transfer; or
- transfer to an existing member or person who will become a member.

Summary: An additional exception to the nontransferable provision regarding exempt transactions by a mutual or cooperative association is created. The additional exception is a transfer by gift to a nonprofit entity. The entity must meet the definition of a nonprofit in the state tax exemption chapter and must be exempt from federal taxes.

Votes on Final Passage:

House	98	0	
Senate	47	0	(Senate amended)
House	97	0	(House concurred)

Effective: June 7, 2006

SHB 2976
C 10 L 06

Implementing a collective bargaining agreement with Western Washington University.

By House Committee on Appropriations (originally sponsored by Representatives Sommers, Hasegawa, Linville, P. Sullivan, Quall, Kenney and Conway).

House Committee on Appropriations
Senate Committee on Ways & Means

Background: Collective bargaining agreements must be submitted to the Office of Financial Management and to the Legislature as part of the Governor's budget proposal. The Legislature must accept or reject the request for funds necessary to implement the agreements as a whole.

In 2004, the Washington Public Employees' Association (WPEA) was certified to represent Bargaining Unit C in collective bargaining with Western Washington University (WWU). The WPEA reached an agreement with WWU, which was submitted to the Governor, and funded and approved by the Legislature in the 2005-07 biennial operating budget. Among other things, the agreement provided cost-of-living adjustments (COLAs) effective July 1 of 2005 and 2006, along with salary survey adjustments.

By June 2005, the employees in Unit C decertified WPEA as their bargaining representative and certified the Public School Employees (PSE) to represent them. At this time, Bargaining Unit C was renamed Professional Technical Employees (PTE). This action negated the agreement between the WPEA and WWU. Additionally, since the employees in this bargaining unit elected a new union to represent them, they were not covered by the September 1 COLA that was provided in the 2005-07 biennial operating budget for non-represented employees.

An agreement was reached between the PSE and WWU in October 2005, and a contract was submitted to the Legislature for approval. Western Washington University currently has an appropriation sufficient to fund the economic terms of the new contract.

Summary: The collective bargaining agreement between the PTE, represented by the Public School Employees of Washington, and Western Washington University is approved. Economic provisions of the agreement include a 3.2 percent salary increase retroactive to July 1, 2005, a 1.6 percent increase effective July 1, 2006, until June 30, 2007, and implementation of a salary survey adjustment.

Votes on Final Passage:

House	98	0
Senate	47	0

Effective: March 7, 2006

ESHB 2984
C 149 L 06

Authorizing cities, towns, and counties to implement affordable housing incentive programs.

By House Committee on Local Government (originally sponsored by Representatives Springer, Jarrett, Simpson, Clibborn, B. Sullivan, Hasegawa, Sells, P. Sullivan, Moeller, Santos and Green).

House Committee on Local Government
Senate Committee on Financial Institutions, Housing & Consumer Protection

Background: Growth Management Act. Enacted in 1990 and 1991, the Growth Management Act (GMA or Act) establishes a comprehensive land use planning framework for county and city governments in Washington. The GMA specifies numerous provisions for jurisdictions fully planning under the Act (planning jurisdictions) and establishes a reduced number of compliance requirements for all local governments.

Among other requirements, planning jurisdictions must adopt internally consistent comprehensive land use plans, which are generalized, coordinated land use policy statements of the governing body. Comprehensive plans must satisfy requirements for specified planning elements, each of which is a subset of a comprehensive plan. Planning jurisdictions must also adopt development regulations that are consistent with and implement the comprehensive plan.

The GMA includes planning obligations relating to the use or development of land in urban and rural areas. Counties that comply with the major requirements of the GMA must designate urban growth areas (UGAs) or areas within which urban growth must be encouraged and outside of which growth may occur only if it is not urban in nature.

Excise Taxes. Excise taxes are taxes imposed on certain types of real or tangible personal property in lieu of property taxes. Excise taxes generally refer to a specific type of transaction or privilege and are determined by the selling price or some other measure of sales.

The state preempts the imposition of specific excises taxes. Additionally, local governments may not impose direct or indirect taxes, fees, or charges on certain construction, development, and land division activities. However, state statute includes numerous provisions specifying that local governments are not prohibited by preemption requirements from authorizing certain locally-imposed fees and charges, including:

- impact fees;
- permit processing fees;
- utility system charges; and
- transportation benefit district fees or charges on building construction or land development.

Summary: Affordable Housing Incentive Programs - General Provisions. Jurisdictions fully planning under the GMA may enact or expand affordable housing incentive programs (incentive programs) providing for the development of low-income housing units through development regulations. Incentive programs may include, but are not limited to, provisions pertaining to:

- density bonuses within the UGA;
- height and bulk bonuses;
- fee waivers or exemptions;
- parking reductions;
- expedited permitting, conditioned on the provision of low-income housing units; or
- mixed use projects.

Jurisdictions may enact or expand incentive programs whether or not the programs impose a tax, fee, or charge on the development or construction of property. If a developer chooses not to participate in an incentive program, a jurisdiction may not condition, deny, or delay the issuance of a qualifying permit or development approval, absent incentive provisions of the program.

Enacted or expanded incentive programs must satisfy numerous requirements, including:

- requiring incentives or bonuses to provide for the construction of low-income housing units;
- obligating jurisdictions to establish standards for low-income renter or owner occupancy housing, including guidelines that are consistent with local needs, to assist qualifying low-income households;
- requiring jurisdictions to establish, and allowing jurisdictions to adjust, a maximum rent level or sales price for low-income housing units developed under an incentive program;
- requiring low-income housing units to be provided in a range of sizes and to conform to more general provisions pertaining to numbers of bedrooms, distributions of units throughout buildings, and functionality;
- requiring low-income housing units developed under an incentive program to be committed to continuing affordability for no fewer than 50 years; and
- requiring measures to enforce continuing affordability and income standards for low-income units constructed under an incentive program.

Other requirements for enacted or expanded incentive programs are specified. Incentive programs may apply to all or part of a jurisdiction, and differing standards may be applied within a jurisdiction. Jurisdictions may modify incentive programs to meet local needs and may include qualifying provisions or requirements not expressly authorized. Additionally, jurisdictions may accept payments in lieu of continuing affordability.

Low-income housing units are encouraged to be located within market-rate housing developments for which a bonus or incentive is provided. Incentive programs may allow units to be located in adjacent build-

ings and may allow payments of money or property in lieu of providing low-income housing units if the payment equals the approximate cost of developing the same number and quality of housing units that would otherwise be developed. Jurisdictions accepting these payments must use the funds or property to support the development of low-income housing, including support through loans or grants to public or private recipients.

Application of Incentive Programs. Enacted or expanded incentive programs may be applied within jurisdictions to address the need for increased residential development. The application of incentive programs must be consistent with local growth management and housing policies and must comply with specific requirements obligating jurisdictions to:

- identify certain land use designations within a geographic area where increased residential development will assist in achieving local growth management and housing policies;
- provide increased residential development capacity through zoning changes, bonus densities, height and bulk increases, parking reductions, or other regulatory changes or incentives; and
- determine that increased residential development capacity or other incentives can be achieved within an identified area, subject to the consideration of other regulatory controls on development.

Additionally, jurisdictions may establish a minimum amount of affordable housing that must be provided by all residential developments constructed under revised regulations, subject to incentive program requirements.

Income Requirements. Low-income households are defined for renter and owner occupancy incentive program purposes as follows:

- Rental housing units must be affordable to and occupied by households with an income of no more than 50 percent of the county median family income, adjusted for family size.
- Owner occupancy housing units must be affordable to and occupied by households with an income of no more than 80 percent of the county median family income, adjusted for family size.

The legislative body of a jurisdiction may establish higher or lower income levels, subject to public hearing and other requirements. Legislatively-established higher income levels must be considered "low-income" for the purposes of incentive programs.

Excise Taxes. Nothing in specified excise tax preemption provisions limits the authority of counties, cities, or towns to implement qualifying incentive programs, nor to enforce agreements made pursuant to these programs.

Votes on Final Passage:

House	60	38	
Senate	47	0	(Senate amended)
House	58	39	(House concurred)

Effective: June 7, 2006

SHB 2985
C 221 L 06

Creating a foster care health unit in the department of social and health services.

By House Committee on Children & Family Services (originally sponsored by Representatives Schual-Berke, Clibborn, Appleton, Moeller, Green, Cody, Morrell, Walsh, McIntire, Kagi, Kenney, Hasegawa and Simpson).

House Committee on Children & Family Services
House Committee on Appropriations
Senate Committee on Human Services & Corrections
Senate Committee on Ways & Means

Background: If there are allegations of abandonment, abuse or neglect, or no parent who is capable of caring for a child, the state may investigate the allegations and initiate a dependency proceeding in juvenile court. If the court finds the statutory requirements have been met, the court will find the child to be a dependent of the state.

If a child is found to be dependent, the state will provide all routine medical and dental examinations and care and all necessary emergency care for the child.

Summary: The Department of Social and Health Services (DSHS) is authorized to provide routine and necessary medical, dental, and mental health care, or necessary emergency care, for children in the custody of the DSHS.

Within existing resources, the DSHS Children's Administration (CA), in collaboration with the Health and Recovery Services Administration, is required to establish a foster care health unit. The health unit is required to review and provide recommendations to the Legislature by September 1, 2006, regarding issues which include, but are not limited to, the following:

- creation of an office within the DSHS to consolidate and coordinate physical, dental, and mental health services provided to children who are in the custody of the DSHS;
- alternative payment structures for health care organization. The DSHS may consider managed care as an alternative structure for health care; however, the DSHS may not implement managed care for health care services for children unless it is in the best interest of the child and not for cost containment purposes;
- improving coordination of health care for children in foster care, including medical, dental, and mental health care;
- improving access to health information available to the CA for providers of health services for children

in foster care, including the use of the Child Profile as a means to facilitate access to such information;
- establishing a medical home for each child placed in foster care to ensure that appropriate, timely, and necessary quality care is available through a coordinated system of care and analyzing how a medical home might be utilized to meet the unique needs of children in foster care; in establishing a medical home, the DSHS must consider primary care that is accessible, continuous, comprehensive, family centered, coordinated, compassionate, and culturally effective;
- examining how existing resources are being utilized to provide health care for foster children and options for improving how the resources are utilized. Particular emphasis must be placed on the following:
  - whether the health care services provided to foster children are evidence-based;
  - whether resources are duplicative or redundant between agencies or departments in the provision of medical, dental, or mental health services for children;
  - identification of where resources are inadequate to meet the routine and necessary medical, dental, and mental health needs of children in foster care; and
  - any other issues related to medical, dental, or mental health care for children in foster care.

The foster care health unit, in collaboration with regional medical consultants, is required to develop a statewide, uniform role for the regional medical consultants with emphasis placed on the mental health needs of the children in foster care. The DSHS is required to implement the utilization of the statewide, uniform role for the regional medical consultants by September 1, 2006.

The foster care health unit expires January 1, 2007.

Votes on Final Passage:

House	97	1	
Senate	46	0	(Senate amended)
House	96	1	(House concurred)

Effective: June 7, 2006

SHB 2987
C 297 L 06

Increasing penalties for vehicle gross weight violations.

By House Committee on Transportation (originally sponsored by Representatives Kagi, Clibborn and Dickerson).

House Committee on Transportation
Senate Committee on Transportation

Background: Vehicle owners registering trucks with a gross weight of 4,000 pounds or more are charged a combined license fee (CLF). The CLF is based on gross vehicle weight. No vehicle or combination of vehicles may operate upon the public highways of the state with a gross load on any single axle in excess of 20,000 pounds or upon any group of axles in excess of the weight that is set forth in statute.

If a vehicle is operated overweight, the penalties are:
- one pound through 4,000 pounds overweight is 3 cents per pound overweight;
- 4,001 pounds through 10,000 pounds overweight is $120 plus 12 cents per pound for each additional pound over 4,000 overweight;
- 10,001 pounds through 15,000 pounds overweight is $840 plus 16 cents per pound for each additional pound over 10,000 pounds overweight;
- 15,001 pounds through 20,000 pounds overweight is $1,640 plus 20 cents per pound for each additional pound over 15,000 pounds overweight; and
- 20,001 pounds or more is $2,640 plus 30 cents per pound for each additional pound over 20,000 pounds overweight.

Upon the first violation in any calendar year, the court may suspend the penalty for 500 pounds of excess weight for each axle on any vehicle or combination of vehicles, not to exceed a 2,000 pound suspension.

Summary: Upon a third or succeeding weight violation during a 12 month period or a third or succeeding out of service violation, as defined on the act's effective date in the Code of Federal Regulations, during any 12 month period, the court will suspend the certificate of license registration for not less than 30 days.

The Washington State Patrol must develop recommendations:
- regarding the most effective methods for tracking the violations that lead to suspensions of certificates of license registrations; and
- for improving the safe operation of commercial motor vehicles on Washington's highways and roads.

In developing these recommendations, the Washington State Patrol must consult with the Administrator of the Courts, the Department of Licensing, the Washington Utilities and Transportation Commission, and the trucking industry. The recommendations will be submitted to the transportation committees of the Legislature by December 1, 2006.

Votes on Final Passage:

House	72	26
Senate	39	8

Effective: June 7, 2006

HB 2991
C 222 L 06

Concerning background checks of certain metropolitan park district employees, volunteers, and independent contractors.

By Representatives Darneille, Walsh, Springer and Simpson.

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

Background: A metropolitan park district manages, controls, improves, maintains, and acquires parks, parkways, boulevards, and recreational facilities. The board of park commissioners consists of five members who have a variety of powers to manage the district.

In 1987, the Legislature authorized the Washington State Patrol Criminal Identification System (WSPCIS) to provide background information on prospective employees and volunteers to businesses and organizations that provide services to children or developmentally disabled persons.

Local criminal justice agencies are required by law to submit felony and gross misdemeanor arrest and disposition information to the Washington State Patrol, where it is included in a Criminal History Record Information (CHRI) data base. The CHRI repository includes information on arrests, detentions, other formal criminal charges, and any disposition arising from those charges, including sentences and release.

Summary: Metropolitan park districts must establish by resolution the requirements for a criminal history record check of all employees, volunteers, and independent contractors who will either have access to children or vulnerable adults while unsupervised or who will be responsible for monetary transactions. The background checks will be processed through the WSPCIS, as provided for in statute, and through the Federal Bureau of Investigation. The background checks must include a fingerprint check using a complete Washington criminal identification fingerprint card. Park districts are required to provide a copy of the record report to the employee, volunteer, or independent contractor (employee). Park districts may determine that it is necessary to employ someone on a conditional basis while the investigation is being conducted, may decide to waive the background check if the prospective employee has had a record check within the past year, and may require that the prospective employee pay for the record check.

The term "park policemen" is changed to "park police."

Votes on Final Passage:

House	97	1	
Senate	47	0	(Senate amended)
House	96	1	(House concurred)

Effective: June 7, 2006

HB 3001
C 98 L 06

Modifying the definition of limousine.

By Representatives Hudgins and Conway; by request of Department of Licensing.

House Committee on Transportation
Senate Committee on Transportation

Background: The Department of Licensing's (DOL) Business and Professions Division licenses and regulates privately operated limousine services. The DOL, in conjunction with the Washington State Patrol (WSP), is charged with regulating various aspects of the operation of limousine businesses, including vehicle safety equipment, chauffeur qualifications, and required insurance levels.

State law defines different categories of limousines, such as stretch limousines and executive sedans. New categories of limousines have emerged, such as stretch sport utility vehicles.

Summary: The definitions of different categories of limousines are removed. The DOL, in consultation with the WSP, is directed to define categories of limousines by rule.

Votes on Final Passage:

House	97	1
Senate	47	0

Effective: November 1, 2006

HB 3019
C 280 L 06

Clarifying the role of a chief financial officer in a charter county.

By Representatives Haigh, Alexander, Dunshee and B. Sullivan.

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

Background: The Washington Constitution (Constitution) allows for two forms of county government in this state: the commission form and the "home rule" charter form. The Constitution requires that all non-charter counties be governed by a board of county commissioners. A board of county commissioners shares administrative and some legislative functions with other independently elected county officials, including an auditor, clerk, treasurer, sheriff, assessor, and coroner.

Article XI, Section 4 of the Constitution was amended in 1948 to allow a county to adopt a "home

rule" charter that allows the voters to create their own form of county government, subject to certain requirements. Within the limits prescribed by the Constitution, counties that adopt charters may appoint officers to perform the various governmental functions that are performed by elected officials in those counties that retain the commission form.

For the purposes of accounting and reporting on municipal corporations, each county auditor or chief financial officer is an ex officio deputy of the State Auditor. For the purposes of the ex officio duties, county auditors or chief financial officers are under the direction of the State Auditor and do not receive additional payment or compensation.

Summary: The provision pertaining to the county auditor or chief financial officer as ex officio deputy state auditor is changed in two ways. First, the reference to "chief financial officer" is modified to refer to "financial officer." Second, county auditors or designated financial officers in charter counties are designated as ex officio deputy state auditors.

Votes on Final Passage:

House 97 1
Senate 49 0

Effective: June 7, 2006

SHB 3024
C 261 L 06

Increasing the number of demonstration projects that may be authorized by the school district project review board.

By House Committee on State Government Operations & Accountability (originally sponsored by Representatives Haigh, Cox, Ericks, Miloscia, Armstrong, McCoy, McDermott, Green, Morrell, Wallace, Nixon, Clements, Chase and Linville).

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

Background: Alternative forms of public works contracting procedures were first used on a very limited basis and then adopted in statute in 1994 for certain pilot projects. These alternative procedures include a design-build process and a general contractor/construction manager (GC/CM) process and may be used on projects costing in excess of $10 million.

The design-build procedure is a multi-step competitive process to award a contract to a single firm that agrees to both design and build a public facility that meets specific criteria. The GC/CM method employs the services of a project management firm that bears significant responsibility and risk in the contracting process.

In 2000, the School District Project Review Board (Review Board) was established to review proposals and approve demonstration projects using the GC/CM procedure for four demonstration projects: two projects valued over $10 million and two projects valued between $5 and $10 million. That number has since increased to 16 projects valued over $10 million, and two projects valued between $5 and $10 million.

The authority to use alternative public works contracting procedures expires July 1, 2007. In 2005, the Capital Projects Advisory Review Board (Advisory Board) was established to evaluate public capital projects construction processes and to advise the Legislature on policies related to alternative public works.

Summary: The number of demonstration projects using alternative public works contracting procedures authorized by the Review Board and valued over $10 million is increased from 16 to 23. The Review Board must prepare and issue a report to the Advisory Board before January 8, 2007 regarding the use of alternative public works contracting procedures by school districts.

Votes on Final Passage:

House 96 0
Senate 47 0

Effective: June 7, 2006

SHB 3033
C 150 L 06

Creating an advisory committee to evaluate animal identification programs.

By House Committee on Economic Development, Agriculture & Trade (originally sponsored by Representatives Pettigrew, Kristiansen, Grant, Kretz, Holmquist, Cox, B. Sullivan, Clements, Campbell, Haigh, Newhouse and Linville).

House Committee on Economic Development, Agriculture & Trade
Senate Committee on Agriculture & Rural Economic Development

Background: In 2004, the U.S. Department of Agriculture (USDA) initiated the National Animal Identification System (NAIS) as a comprehensive information system to support ongoing animal disease monitoring, surveillance, and eradication programs. When fully operational, the system is planned to be in use in all states to identify and track animals as they come into contact and commingle with animals other than those in their premises of origin. The system is intended to enable animal health officials to trace a sick animal or group of animals back to the herd or premise that was the most likely source of infection. A stated long-term NAIS goal is to be able to identify all premises and animals that had direct contact with a foreign animal disease or domestic

disease of concern within 48 hours of discovery.

Implementation of the NAIS involves both the federal and state departments of agriculture and has three phases: premise registration; animal identification; and animal movement reporting. The state Department of Agriculture (Department) began voluntary premise registration in January 2005. In the past year, 875 premises have registered. Issuance of unique individual or group lot animal identification numbers is the second phase. Nationally, a number of industry/government, species-specific workgroups have formed to consider which type of identification will work best for their particular animals. Methods under consideration include radio frequency identification tags, retinal scans, DNA, and others. The third phase will involve collection of information on animal movement from one premises to another. The program is voluntary at both the state and federal levels, but may become mandatory at the national level in 2009 or 2010.

Summary: The Director of the Department (Director) must convene an advisory committee (committee) whose members represent cattle industry segments that will be involved in state-level implementation of the national animal identification program. The Director is required to consult with affected industry organizations in making committee appointments and is authorized to appoint additional members as needed. The Director must appoint one committee member who is from a federally recognized tribe and is in the cattle industry.

The advisory committee will:

- evaluate the national animal identification program requirements;
- examine approaches taken by other states, with an emphasis on neighboring states and those with the largest amount of livestock trade with Washington;
- evaluate two or more demonstration projects by the Department at facilities that handle large numbers of animals;
- make a recommendation on how to implement the federal requirements in Washington, including funding amounts and sources; and
- consult with the Office of Financial Management on the funding proposal.

The Department must provide a final written report to the Legislature on the committee's activities and recommendations by December 1, 2006.

Votes on Final Passage:

House	91	3
Senate	47	0

Effective: June 7, 2006

HB 3041
C 97 L 06

Modifying voter registration timelines.

By Representatives Alexander, Nixon, Haigh, Darneille and P. Sullivan.

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

Background: The last day for an elector to register to vote or to transfer his or her registration is 30 days before an election. However, late registration provisions allow an elector to register to vote or to transfer his or her registration within 15 days of an election if he or she registers or transfers his or her vote in person at the appropriate county office and votes an absentee ballot for that upcoming election.

Summary: The option by which an elector may transfer his or her registration within 15 days of an election is removed.

Votes on Final Passage:

House	98	0
Senate	48	0

Effective: June 7, 2006

HB 3048
C 96 L 06

Changing the effective date of the uniform interstate family support act.

By Representatives Moeller and Darneille; 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 UIFSA was drafted by the National Conference of Commissioners on Uniform State Laws in the early 1990s. Washington adopted the UIFSA in 1994.

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

In 2002, Washington adopted these additional amendments with an effective date of six months following the date the U.S. Congress amended its original UIFSA mandate to include the amendments. The Congress has not yet required states to adopt the amend-

ments. However, the Department of Health and Human Services has been granting waivers from the federal mandate to states that have been acting in compliance with the amendments, rather than the original mandate.

The 2002 Washington amendments do not address the issue of waiver.

Summary: The contingent effective date of the 2002 Washington amendments adopting the Uniform Interstate Family Support Act amendments is changed to January 1, 2007.

Votes on Final Passage:

House	98	0
Senate	47	0

Effective: June 7, 2006

HB 3056
C 41 L 06

Allowing second class cities and towns to pay claims by check or warrant.

By Representatives Takko, Woods, Clibborn, B. Sullivan and Springer.

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

Background: Cities and towns are classified when they incorporate or are reorganized. Four classes of municipal government exist under Washington law: (1) first class cities; (2) second class cities; (3) towns; and (4) optional municipal code cities. Second class cities are cities with populations of at least 1,500 at the time of organization or reorganization that have not adopted Home Rule Charters. Towns generally have had populations fewer than 1,500 at the time of organization. State law no longer allows new areas to incorporate to form a new town.

A second class city treasurer receives all money due the city and pays out city money on warrants issued by the clerk and countersigned by the mayor. The treasurer reconciles monthly with the city clerk, providing the clerk with receipts for money received and canceled warrants as evidence of money paid out.

A town's treasurer receives all money due the town and pays out the town's money on warrants signed by the mayor and countersigned by the clerk. The treasurer reconciles monthly with the clerk.

Summary: Second class cities and towns are given the power to adopt a policy on the payment of claims and other obligations, which are payable by warrant or check if the funds are solvent. If the funds are not solvent, warrants must be used as payment. The legislative bodies of second class cities and towns must also designate a depository upon which to draw checks and authorize or require certain officers to sign checks.

The term "warrant" includes checks where allowed by these provisions.

Votes on Final Passage:

House	98	0
Senate	47	0

Effective: June 7, 2006

2SHB 3070
C 262 L 06

Increasing housing development capacity.

By House Committee on Capital Budget (originally sponsored by Representatives Miloscia, Hasegawa, Chase and Santos).

House Committee on Housing
House Committee on Capital Budget
Senate Committee on Financial Institutions, Housing & Consumer Protection

Background: The Housing Finance Commission (HFC) was created by the Legislature in 1983 The HFC is not, however, a state agency. The HFC does not receive state funds, it does not lend state funds, and the state is not liable for any of the HFC's debt. The HFC acts as a financial conduit of federal funds and has the authority to issue bonds for the development of affordable housing and non-profit facilities. To date, the HFC has financed more than 112,000 affordable housing units and elderly beds across the state and 103 nonprofit facilities.

When created in 1983, the HFC's statutory debt limit was $1 billion. The debt limit was raised to $2 billion in 1985 and to $3 billion in 1999. The debt limit is the total amount of debt HFC is authorized to have outstanding at any one time. As of January 2006, the HFC's outstanding debt reached $2.7 billion. Once the HFC reaches the $3 billion limit, it must stop issuing debt to finance additional affordable housing and nonprofit facilities.

Summary: The HFC's debt limit is increased to $4.5 billion.

Votes on Final Passage:

House	56	42	
Senate	36	8	(Senate amended)
House			(House refused to concur)
Senate			(Senate receded)
Senate	38	9	(Senate amended)
House	82	16	(House concurred)

Effective: June 7, 2006

EHB 3074
C 80 L 06

Concerning default judgments against service members.

By Representatives Serben, Lantz, Haler, McCoy, Chase, Dunn, Green and Morrell.

House Committee on Judiciary
Senate Committee on Judiciary

Background: In 2005 the Legislature enacted the Washington Service Members' Civil Relief Act (Act) to provide certain rights and protections in civil proceedings to service members during their military service or within 180 days after termination of their military service. The Act was modeled on the federal Servicemembers' Civil Relief Act and provides similar rights to those provided under the federal law.

The Act contains numerous protections for service members, and their dependents, whose financial and legal obligations may be adversely impacted by active military duty. The Act applies to a Washington resident who is a member of the National Guard or a military reserve component and is under a call to service for a period of more than 30 consecutive days.

One of the provisions of the Act protects a service member or dependent from default judgments. In a civil action or proceeding where a defendant does not make an appearance, the plaintiff must file an affidavit, before a judgment is rendered, that states whether the defendant is in military service or is a dependent of a service member in military service, or states that the plaintiff is unable to determine whether the defendant is in military service or is a dependent of a service member in military service.

The court may not enter a judgment against an absent defendant who is in military service, or who is a dependent of a service member in military service, until after the court appoints an attorney to represent the defendant. The actions of the attorney are not binding on the service member or dependent if the attorney is unable to locate the service member or dependent.

If a service member or dependent is a defendant and does not make an appearance, the court must grant a stay of proceedings until 180 days after termination of or release from military service if the court finds there may be a defense to the action that cannot be raised without the defendant's presence, or counsel has been unable to contact the defendant to determine whether there is a valid defense.

Summary: The Washington Service Members' Civil Relief Act (Act) is amended to create a process for determining whether a defendant who does not make an appearance in a civil action or proceeding is a dependant of a service member in military service. In such an action, the plaintiff may serve on or mail via first-class mail to the defendant a written notice. The contents of the notice must be substantially the same as the notice set forth in the Act and must include provisions notifying the defendant of the rights available to a dependent of a service member in military service and the consequences of failing to notify the plaintiff of his or her status as a dependant of a service member in military service.

For the purposes of entering a default judgment, a court or administrative tribunal may presume that an absent defendant is not a dependant of a service member in military service if the defendant fails to timely respond to a notice that is either served on the defendant at least 20 days, or mailed to the defendant at least 23 days, before an application for a default judgment.

The stay of proceedings provision of the Act is amended to provide that the failure of a defendant who is protected under the Act to communicate or cooperate with counsel after having been contacted is not grounds to find that counsel has been unable to contact the defendant to determine whether there is a valid defense.

Votes on Final Passage:

House	98	0
Senate	45	0

Effective: June 7, 2006

ESHB 3079
PARTIAL VETO
C 264 L 06

Reporting on the employment status of recipients of medicaid and the basic health plan.

By House Committee on Appropriations (originally sponsored by Representatives Conway, Cody, Sells, Dickerson, Morrell, Simpson, Schual-Berke, Hasegawa, Chase and Santos).

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

Background: The Legislature has expanded Medicaid eligibility and established the Basic Health Plan (Plan) to provide health care coverage for low-income working families. There is limited information collected on the employers of low-income workers who enroll in Medicaid and the Plan.

Summary: The Health Care Authority and the Department of Social and Health Services must submit a report to the Legislature on the employment status of enrollees of the Basic Health Plan and Medicaid. The information will be reported by employer with greater than 50 employees. It will include the aggregate number of employees by employer, the number of hours worked, and the total cost to the state.

Votes on Final Passage:

House	94	3	
Senate	45	0	(Senate amended)
House			(House refused to concur)
Senate			(Senate receded)
Senate	46	1	(Senate amended)
House	96	2	(House concurred)

Effective: June 7, 2006

Partial Veto Summary: The Governor vetoed the Null and Void clause.

VETO MESSAGE ON ESHB 3079

March 27, 2006

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

Ladies and Gentlemen:

I am returning, without my approval as to Section 3, Engrossed Substitute House Bill No. 3079 entitled:

"AN ACT Relating to health care services."

I support ESHB 3079, an act providing information about our Basic Health Plan and Medical Assistance programs. I am, however, vetoing section 3 of this act, which includes an unnecessary null and void clause.

In signing ESHB 3079, I express a cautionary note as to the interpretation of the reports that it requires to be developed. The employer information to be provided by the Health Care Authority (HCA) and the Department of Social and Health Services (DSHS) is not a requirement for enrollment or eligibility. Consequently, data contained in the reports will have been provided on a voluntary basis, and will be unverified. The two reports - an employer-specific report and an aggregated report - will originate from separate sources. Therefore, they will not be comparable. The reports will also be based on a point-in-time data collection and will therefore not reflect changes in employment status. These data limitations must be considered when interpreting the reports.

It is equally important to note that the Joint Legislative Audit and Review Committee (JLARC) study due in July 2006 will report Basic Health employment status and employer information in more detail than the aggregated report required by this bill.

It is my hope that the information collected and provided to the Legislature in accordance with ESHB 3079 will not be misconstrued to portray beneficiaries of our Basic Health and Medicaid programs in a negative light. These programs are designed to provide health care services to eligible, often working, enrollees. I am confident that they are meeting that intent.

For these reasons, I have vetoed Section 3 of Engrossed Substitute House Bill No. 3079.

With the exception of Section 3, Engrossed Substitute House Bill No. 3079 is approved.

Respectfully submitted,

Christine O. Gregoire
Governor

SHB 3085
C 42 L 06

Making technical corrections to certain public lands statutes.

By House Committee on Natural Resources, Ecology & Parks (originally sponsored by Representatives Blake, Kretz, B. Sullivan, Orcutt, Haler and Ericks).

House Committee on Natural Resources, Ecology & Parks
Senate Committee on Natural Resources, Ocean & Recreation

Background: The Department of Natural Resources (DNR) has authority to sell timber and other valuable resources from state lands. Most sales conducted by the DNR must be done at public auction to the highest bidder. Before valuable materials can be sold, the sale must be properly advertised so that the maximum number of potential buyers are aware of the pending sale. However, the DNR has authority to offer a direct sale without notice or advertising for sales appraised at $20,000 or less.

For sales other than direct sales, the DNR is required to publish a notice in newspapers no less than twice within the four-week period leading up to a sale. For valuable materials sales over $100,000, the DNR is required to provide notice by an individual notice of sale and by publishing a statewide list of sales. The list must be published in a pamphlet and arranged alphabetically by county.

In 2003, the Legislature enacted Substitute Senate Bill 5751 (Chapter 381, Laws of 2003), which contains policy changes regarding valuable materials sales. Chapter 381, Laws of 2003, changes the maximum dollar amount for directly sold valuable materials from $20,000 to $25,000 and excludes valuable materials sales that are appraised at less than $250,000 from the requirement for an individual notice of sale and inclusion in the statewide pamphlet of sales.

In 2003, the Legislature also enacted Engrossed House Bill 1252 (Chapter 334, Laws of 2003), consolidating and updating the statute that governs DNR public land statutes, without making substantive policy changes. However, Chapter 334, Laws of 2003, repealed the sections amended in Chapter 381, Laws of 2003, and recodified them into new sections. If during any session of the Legislature two or more acts amend the same section of laws without reference to each other, each act is given effect to the extent that the amendments do not conflict in purpose.

Summary: Chapter 381, Laws of 2003, is repealed and policy changes from the act are incorporated into the current statute. Changes include increasing the direct sales cap from $20,000 to $25,000 and exempting sales up to

$250,000 in value from the pamphlet publication requirements.

Votes on Final Passage:

House 98 0
Senate 45 0

Effective: June 7, 2006

SHB 3087
C 81 L 06

Concerning cost savings on course materials for students at state universities, regional universities, and The Evergreen State College.

By House Committee on Higher Education & Workforce Education (originally sponsored by Representatives Ormsby, Sells, Kenney, Cox, Buri, Fromhold, Hasegawa, Morrell, McCoy, Upthegrove, Ericks, Darneille, Rodne, Chase, Conway, Kessler, Dunn, Green and Lantz).

House Committee on Higher Education & Workforce Education
Senate Committee on Early Learning, K-12 & Higher Education

Background: In Washington, according to the Financial Aid Association, books and supplies are budgeted at a total of $924 for academic year 2005-06. The 2005 College Store Industry Financial Report lists the average price of a new textbook as $52.36 and the average price of a used textbook as $40.01. A recent study conducted by the U.S. Government Accountability Office (GAO) stated that college textbook prices nearly tripled from December 1986 to December 2004. These prices increased by 186 percent, while tuition and fees increased by 240 percent, and overall inflation was 72 percent during the same time period.

The GAO study attributes text book cost increases to several factors. The primary reason the cost of textbooks has increased in recent years is because "bundling," which is the addition of supplemental materials, such as CD-ROMs. Publishers say that they provide these supplemental materials at the request of instructors to enhance student learning. Another factor cited in the study was the frequent revision of textbooks. Publishers report that textbooks are generally revised every three to four years, compared with cycles of four to five years that were standard in the past. Publishers report that frequent revisions are driven by the needs of instructors, who require the most current material reflecting changes in the discipline as well as changes in teaching methods. If a new edition of a book has been released, a student is not likely to be able to receive money in the bookstore buy-back process.

Each of the six public baccalaureate institutions in the state is affiliated with a bookstore. At the University of Washington, the bookstore is incorporated and operated under a Board of Trustees with student and faculty representation. The bookstore at Washington State University is incorporated and contracts with Barnes & Noble College Booksellers to manage its Students Book Corporation stores. The bookstores affiliated with Central Washington University, Eastern Washington University, Western Washington University, and The Evergreen State College are owned by their respective institutions and operate as self-supporting auxiliary enterprises.

Summary: The Legislature finds that the bundling of texts, workbooks, CD-ROMs, and other course-related materials is often unnecessary and that many faculty and staff select materials uninformed of the retail costs and differences between versions. The Legislature intends to give students more choices for purchasing educational materials and to encourage faculty and staff to work closely with bookstores and publishers to implement the least costly option to students without sacrificing educational content.

The Boards of Regents of the state universities and the Boards of Trustees of the regional universities and The Evergreen State College, in collaboration with affiliated bookstores and student and faculty representatives, must adopt rules requiring that affiliated bookstores: (1) provide students the option of purchasing unbundled materials when possible; (2) disclose the costs of the materials; (3) disclose how new editions vary from previous editions; and (4) actively promote and publicize book buy-back programs. Rules must also be adopted that require faculty and staff members to consider least costly practices in assigning course materials when educational content is comparable, and to work closely with publishers and local bookstores to create bundles and packages if they deliver cost savings to students.

Votes on Final Passage:

House 98 0
Senate 48 0

Effective: June 7, 2006

E2SHB 3098
C 263 L 06

Transferring duties of the reconstituted state board of education.

By House Committee on Capital Budget (originally sponsored by Representatives McDermott, Talcott and Quall).

House Committee on Education
House Committee on Capital Budget
Senate Committee on Early Learning, K-12 & Higher Education
Senate Committee on Ways & Means

Background: Legislation enacted in 2005 reconstituted the State Board of Education (SBE) effective January 1,

2006. The stated purpose of the new board is to adopt statewide policies that promote achievement of the Basic Education goals, implement a standards-based accountability system, and provide leadership in the creation of an education system that respects the diverse cultures, abilities, and learning styles of all students.

The new SBE was assigned student achievement and accountability responsibilities previously held by the Academic Achievement and Accountability Commission, which was abolished. Former SBE responsibilities for educator preparation and certification were transferred to the Professional Educator Standards Board (PESB).

The remaining statutory duties of the SBE were left unchanged, and a joint subcommittee of the Legislative Education Committees was created to review these duties and make recommendations to the full committees by December 15, 2005.

The SBE has a wide range of statutory duties, many of which involve rule-making, pertaining to the following topics:

1) oversight, implementation, and waivers of the Basic Education Act;
2) planning, regulation, and allocation of funding for school facilities and school organization;
3) public and private school accreditation and private school authorization;
4) high school graduation requirements and rules regarding other educational programs;
5) rules and appeals of school district boundary issues;
6) Educational Service District (ESD) elections and boundaries;
7) policies on pupil discipline, uniform entry, and pupil tests and records;
8) oversight of the Washington Interscholastic Activities Association (WIAA); and
9) rules regarding immunization of students, library media centers, and training of bus drivers.

The joint subcommittee's recommendations took the form of three general actions: (1) retain selected duties of the SBE with the new board; (2) transfer selected duties to other state agencies, primarily but not exclusively to the Superintendent of Public Instruction (SPI); and (3) repeal selected duties.

A number of statutes were identified dealing with educator preparation or certification issues that still refer to the SBE, rather than the PESB.

Summary: General. The purpose statement for the new SBE is expanded to include advocacy and strategic oversight of public education and leadership in the creation of a system that personalizes education for each student.

The SBE must include the chairs and ranking minority members of the legislative Education Committees in board communications to keep them apprised of discussions and proposed actions. Broad authority of the SBE to adopt rules for the government of schools, students and employees, prepare an outline of study for the public schools, and hear and decide appeals is repealed. The new SBE is encouraged to review the transfer of duties under the act, and if any of them are necessary to accomplish its purpose, to request to the Legislature that those duties be returned.

Members of the SBE will be compensated as a Class IV rather than a Class III board ($100 per diem for official duties).

Basic Education Act. As it makes final recommendations for state funding for public education, the Washington Learns steering committee is strongly encouraged to examine whether the use of inputs is the most efficient and effective funding system and whether changes to funding allocation methods can be created to implement the intent of education reform.

School Facilities and Organization. The SBE responsibility for facilities planning, rule-making and allocation of funds for school facilities, and determination of remote and necessary school sites is transferred to the SPI. The SPI will exercise this authority considering policy recommendations from a new School Facilities Citizen Advisory Panel. The panel is comprised of one member of the SBE, two school district directors appointed by the SBE from a list of five names submitted by the Washington State School Directors' Association, and four additional citizen members appointed by the SBE. The SPI may also convene a technical advisory group.

Accreditation. The SBE no longer accredits public schools. (The SBE authority to accredit and authorize private schools, as well as oversee programs for home-schooled students, is unchanged.)

High School Graduation and Other Education Programs. The SBE retains authority for high school graduation requirements, but responsibility for standardized transcripts and establishing course equivalencies is transferred to the SPI, in consultation with the Higher Education Coordinating Board, the State Board for Community and Technical Colleges (SBCTC), and the Workforce Training and Education Coordinating Board. The SBE must develop and propose a revised definition of the purpose and expectations for a public high school diploma. The definition must focus on the knowledge, skills, and abilities that students are expected to demonstrate. The proposed revised definition must be submitted to Legislative Education Committees by December 1, 2007.

The SBE, in consultation with the SBCTC, will examine issues pertaining to the general educational development test (GED) and adult education and make recommendations to the legislative Education committees by January 15, 2007. The SPI is assigned responsibility for education centers, the National Guard Youth Challenge (in consultation with the Military Department), and required courses of study for the common schools.

School District Boundaries. The SPI is assigned rule-making responsibility for school district boundary issues and other powers related to the organization or reorganization of school districts. The authority of the SBE to hear appeals of boundary decisions is transferred to an administrative law judge under the Administrative Procedures Act.

ESDs. The SBE responsibility to conduct elections for ESD board members is transferred to the SPI.

Policies Regarding Students. Rule-making responsibility for pupil discipline and due process policies, uniform entry age, and pupil tests and records is transferred to the SPI.

WIAA. The SBE's responsibility to authorize WIAA rules and annually review WIAA policies, finances, and actions is repealed. Instead, this voluntary nonprofit entity is authorized to conduct its activities under the authority of its governing board. In addition, by July 1, 2006, the WIAA must establish a nine-member appeals committee comprised of the secretary from each of the activity districts to address appeals of non-eligibility issues. A decision of the appeals committee may be appealed to the Executive Board of the WIAA.

Other. The SPI, in consultation with the State Board of Health (SBOH), must adopt rules regarding due process for public school students excluded from school due to lack of proper immunizations. The SBE retains responsibility for these rules for private school students, also in consultation with the SBOH. An SBE rule requiring teachers to be present one-half hour before and after school is replaced by a requirement that each school board adopt a policy on this topic and make the policy available to parents and the public. An SBE rule describing quality criteria for school library media programs is placed in statute, and the SBE rule-making authority on this topic is repealed. The SPI must adopt rules regarding training of bus drivers. The SBE rule-making authority over central purchasing and real property sales contracts is repealed.

References to the SBE in statutes pertaining to educator certification, student teaching centers, alternative routes to teacher certification, continuing education clock hours, and internships are changed to the PESB.

Votes on Final Passage:

House	92	6	
Senate	34	11	(Senate amended)
House			(House refused to concur)
Senate			(Senate receded)
Senate	36	11	(Senate amended)
House	98	0	(House concurred)

Effective: June 7, 2006
September 1, 2009 (Section 407)

SHB 3113
C 179 L 06

Expanding access to higher education using the university center model.

By House Committee on Higher Education & Workforce Education (originally sponsored by Representatives Sells, Kenney, Strow, McCoy, Haler, Dunshee, B. Sullivan, Lovick, Roberts and Hasegawa).

House Committee on Higher Education & Workforce Education
House Committee on Appropriations
Senate Committee on Early Learning, K-12 & Higher Education
Senate Committee on Ways & Means

Background: The North Snohomish, Island and Skagit (NSIS) Counties Higher Education Consortium was established to provide students in the NSIS region with access to a variety of higher education institutions offering classes through one location, the Everett Station. Legislation enacted in 2005, stated that the NSIS Consortium did not meet the needs of the region and that the university center model of service delivery, centered on a community college campus with a single point of accountability, is more effective.

The legislation assigned management and leadership responsibility for the NSIS Consortium to Everett Community College and requested a plan for the region to include preliminary recommendations, due to the Legislature December 1, 2005.

Everett Community College submitted a report titled "Higher Education Opportunity in the NSIS region (Preliminary Report)" to the Legislature on December 1, 2005. This report describes the vision for a new "University Center of North Puget Sound," to sponsor bachelor's and graduate degree programs offered by a variety of different universities. The University Center of North Puget Sound would be located at Everett Station through 2008, and then relocate to Everett Community College in January 2009, with the opening of a new undergraduate education center on the college campus. Depending on enrollment growth, the report states that additional space may be required beyond 2011.

The preliminary report submitted by Everett Community College describes projections of the population to the year 2025. In the Snohomish area, the total population is projected to expand by 39 percent, in the Island region by 35 percent, and in the Skagit region by 46 percent. Low baccalaureate participation rates and low transfer rates are attributed to the lack of a baccalaureate institution in the region. Student interest in baccalaureate opportunities in the NSIS region was documented through a survey conducted by the University of Washington. Of the students surveyed, 83 percent of community college students said they wanted to continue beyond an associate degree. A follow-up survey con-

ducted by Everett Community College found that half of all people surveyed said they would complete a bachelor's degree if the program of their choice was available in the Everett area. Employer needs in the area, as stated in the report, include interest in educational options for employees who already have earned a technical associate degree, but who need a bachelor's degree to strengthen their skills.

The report also describes goals which include serving between 450 and 620 full-time equivalent (FTE) students by the year 2011, and 700 to 1,500 FTEs by the year 2015. The range of needed FTEs will depend on when new programs can be added and whether new opportunities for participation in higher education will successfully meet the needs of the expected population growth in the area.

The need for higher education enrollment in the NSIS region has been documented in a study required by the 2005 Capital Budget proviso. The Budget directs the Higher Education Coordinating Board to undertake a higher education needs assessment of the Snohomish, Island, and Skagit counties region. An interim report was due to the Legislature on January 15, 2006, and a final report is due December 1, 2006. The interim report projects unmet need at the upper-division level to 4,141 FTEs and unmet need at the graduate/professional level to 2,397 FTEs by the year 2025.

Summary: The Legislature accepts the preliminary report "Higher Education Opportunity in the NSIS Region" as representative of the needs for higher education in the NSIS region, finds unmet need at the upper-division level in the area, and intends to support enrollment growth as represented in the report.

The Legislature intends to provide funding for a minimum of 250 FTEs at the upper-division and graduate levels for the fiscal year ending June 30, 2007, to meet the higher education needs of the NSIS region. The funding will support fields of study including but not limited to, engineering, technology, nursing and health professions, environmental sciences, education, interdisciplinary studies, and others based on student and employer demand.

Everett Community College, with the assistance of Edmonds Community College, Skagit Valley College, and the participating universities will submit a report to the Legislature by July 1, 2007. The report will describe the number of enrollments and degrees resulting from the new FTE funding, as well as the effect of those enrollments and degrees on local communities.

Votes on Final Passage:

House	90	8
Senate	48	0

Effective: June 7, 2006
July 1, 2006 (Section 1)

2SHB 3115
PARTIAL VETO
C 353 L 06

Establishing a foster parent critical support and retention program.

By House Committee on Appropriations (originally sponsored by Representatives Darneille, Talcott, Morrell, Green, McDonald, Ormsby, Simpson and Roberts).

House Committee on Children & Family Services
House Committee on Appropriations
Senate Committee on Human Services & Corrections
Senate Committee on Ways & Means

Background: Foster Parent Recruitment, Training, and Support. Washington's child welfare system includes a program for foster parent pre-service training as well as a program for recruitment of foster parents. The Department of Social and Health Services (DSHS) is responsible for recruiting an adequate number of prospective foster and adoptive homes, including both regular and specialized homes. In 1990, the Legislature directed the DSHS to develop and implement a project to recruit more foster homes and adoptive homes for special needs children. Within each of the state's six regions, the DSHS must contract with one or more licensed foster care or adoption agencies to enhance the efforts of the DSHS.

In addition to efforts by the DSHS, various other entities strive to provide support for foster parents. Support efforts include foster parent crisis support hotlines, low-cost or no-cost training opportunities and workshops, monthly newsletters, and local foster parent support groups.

Child Abuse and Neglect Referrals. The DSHS Children's Administration Child Protective Services (CPS) is the central point of intake for reports of alleged child abuse and neglect. Referrals alleging child abuse and neglect are screened for investigation and assigned a risk tag based on available information. High risk referrals require a response within 24 hours. Moderate risk referrals are investigated within 10 days. Low risk referrals may be investigated or may be referred to a local provider who attempts to engage the family in voluntary services. Some referrals may be designated information only or may be screened out by CPS entirely if: (1) the child cannot be located; (2) the alleged perpetrator is not the parent/caregiver of the child; (3) the allegation does not meet the legal definition of abuse/neglect; or (4) there are no risk factors that place the child in danger of serious and immediate harm. The DSHS must maintain a log of screened out non-abusive cases.

Those referrals alleging child abuse or neglect which are screened in for investigation by CPS are designated in the case file after investigation as either unfounded,

founded, or inconclusive. State law defines an unfounded referral as an allegation for which available information indicates that, more likely than not, child abuse or neglect did not occur. The designations of founded and inconclusive are defined in rules adopted by the DSHS, but not in statute. A founded allegation is a determination following an investigation by CPS that, based on available information, it is more likely than not that child abuse or neglect did occur. An inconclusive designation is a determination following an investigation by CPS that, based on available information, a decision cannot be made that more likely than not child abuse or neglect did or did not occur.

Unfounded referrals must be purged from the CPS records system at the end of six years after receipt of the referral unless an additional referral has been received in the intervening six years. The state-approved records retention policy for the DSHS allows for other records to be destroyed after seven years. The DSHS reports that records of founded allegations of abuse and neglect are maintained indefinitely.

Summary: Foster Parent Critical Support and Retention Program. The Division of Children and Family Services (Division) within the DSHS is directed to establish a critical support and retention program for foster parents who care for children who act out sexually, are physically assaultive, or who have other high-risk behaviors. The program will be implemented under the Division's contract and supervision area. Contractors must demonstrate experience providing in-home case management to foster homes licensed through the Division.

The program must include:

1) 24-hour emergency assistance seven days a week;
2) assessment of risk and development of a safety and supervision plan;
3) home-based foster parent training utilizing evidence-based models; and
4) referral to community services.

Sharing of Information with Foster Parents. The sharing of the following information with foster parents is expressly required: (1) whether the child is sexually reactive; and (2) any guidelines or recommendations established by the Department of Health regarding testing for and disclosure of information related to blood-borne pathogens.

Child Abuse and Neglect Referrals. The DSHS must report to the Legislature by December 1, 2006, regarding recommendations for improving practices relating to the in-take, screening, investigation, and management of records of child abuse and neglect allegations. The report must address:

1) definitions of terms relating to referrals, screening, and investigation of allegations;
2) processes for in-take and screening of allegations;
3) processes for management and disclosure of information, including retention and destruction of records;
4) responses to allegations against foster parents; and
5) due process rights for persons found to have abused or neglected a child.

Votes on Final Passage:

House	98	0	
Senate	45	0	(Senate amended)
House			(House refused to concur)
Senate			(Senate receded)
Senate	45	0	(Senate amended)
House	98	0	(House concurred)

Effective: June 7, 2006

Partial Veto Summary: Removes the requirement for ongoing support groups as a component of the Foster Parent Critical Support and Retention Program.

Adds a requirement for a report from DSHS to the Legislature by December 1, 2006, regarding recommendations for improving practices relating to referrals, investigations, and records of child abuse and neglect allegations.

Expressly requires the sharing of information with foster parents about: (1) whether the child is sexually reactive; and (2) any guidelines or recommendations established by the Department of Health regarding testing for and disclosure of information related to blood-borne pathogens.

VETO MESSAGE ON 2SHB 3115

March 30, 2006

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

Ladies and Gentlemen:

I am returning, without my approval as to Section 5, Second Substitute House Bill No. 3115 entitled:

"AN ACT Relating to establishing a foster parent critical support and retention program."

Section 5 of the bill creates a statutory duty for the Department of Social and Health Services (DSHS) to disclose information to care providers regarding a dependent child's behavioral and emotional problems or regarding whether a dependent child is 'sexually reactive.' The duty to share this information is not limited to only that information known to the DSHS. Moreover, the term 'sexually reactive' is not defined in this bill or in existing statutes. The lack of clarity regarding what specific information is to be shared and the absence of a key definition might result in misunderstandings between the DSHS and care providers. This, in turn, might result in inadequate supervision of children or unnecessary litigation.

I am directing the DSHS, however, to develop policies to implement the intent of Section 5. The DSHS policies are to specify what types of information must be shared with care providers, when the information is to be shared, and the manner in which the information is to be shared. The policies should include definitions of key terms. The DSHS' duty to share information should not be limited to only that information known at the time of placement. Rather, the DSHS should share information, consistent with the criteria outlined in policy, on an ongoing basis.

For these reasons, I have vetoed Section 5 of Second Substitute House Bill No. 3115.

With the exception of Section 5, Second Substitute House Bill No. 3115 is approved.

Respectfully submitted,

Christine O. Gregoire
Governor

SHB 3120
C 82 L 06

Concerning notice requirements for tort claims against state and local governments and their officers, employees, or volunteers.

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

House Committee on Judiciary
Senate Committee on Judiciary

Background: A tort claim against either the state or a local government may not be filed in court until the claimant complies with certain notice requirements established in statute, called the "claim filing statute." One of the purposes of the claim filing statute is to allow governmental entities time to investigate, evaluate, and settle claims prior to the instigation of a civil proceeding.

A tort claim against the state must be presented to and filed with the Risk Management Division of the Office of Financial Management. A tort claim against a local governmental entity must be presented to an agent designated by the local governmental entity to receive the claim. The claim must accurately describe the injury or damages, the conduct or circumstances that brought about the injury or damage, the names of all persons involved, and the amount of damages claimed. A claimant may not commence a civil tort action against the state, or against a local governmental entity, until 60 days after the claim is filed. The statute of limitations for the claim is tolled during this 60 day period.

Substantial compliance with respect to the contents of the claim is sufficient. However, the courts have strictly construed the procedural requirements of the claim filing statute. Failure to strictly comply with the filing requirements leads to dismissal of the action.

State and local governmental entities are liable for the tortious conduct of their officers, employees, or volunteers while they are acting within their official duties. However, the claim filing statutes do not specifically state that a claim against an officer, employee, or volunteer of the state or local governmental entity must be filed with the state or local governmental entity before a civil action may be brought. In a recent Washington Supreme Court case, *Bosteder v. Renton*, a claimant argued that a suit against an individual officer or employee of the governmental entity did not have to comply with the claim filing statute.

A majority of the Court (in a five - four split decision) agreed with the claimant and held that the claim filing statute does not apply to a claim filed against an individual officer or employee of a governmental entity. These five justices found that the plain language of the statute applies only to the governmental entity and not to individual employees, and that the Legislature could have easily included individuals in the statute if it had intended the statute to apply to them.

Four justices determined that the requirements of the claim filing statute do apply to claims against an individual officer or employee of the governmental entity when the alleged conduct occurred in the scope of employment. These members reasoned that interpreting the statute to apply only to claims filed against the government, and not to those filed against an individual officer or employee, would allow claimants to avoid the claim filing statute and would create a large loophole that would frustrate the Legislature's intent in enacting the statute.

Summary: The claim filing statutes that apply to tort claims against the state or local governments are amended to specifically provide that these statutes apply to claims against officers, employees, or volunteers of the state or local government when acting in that capacity.

A local governmental entity that fails to comply with its duty to designate and record an agent to receive claim filings is precluded from raising a defense under the claim filing statute.

Votes on Final Passage:

House	97	0
Senate	46	0

Effective: June 7, 2006

HB 3122
C 95 L 06

Recognizing the safety of child protective, child welfare, and adult protective services workers.

By Representatives Kagi, Walsh, Dickerson, Darneille, Ericks, Ormsby and Roberts.

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

Background: Workers' compensation payments are provided to employees who are injured on the job. Payments under the program, however, do not equal an employee's full pay and are based on a graduated scale reflecting marital status and number of dependents.

In February 2005, a child protective services social worker in Ferry County was assaulted while assisting law enforcement authorities with removal of three children from a neglectful situation in their home. The chil-

dren's father was shot and killed by law enforcement as he attacked the social worker with a machete and a two-by-four piece of wood. The worker was hospitalized and treated for wounds to her head, shoulders, arms, and wrists. As a result of the assault, the worker missed numerous workdays and used her personal sick leave to cover the short fall between workers' compensation payments and her full salary.

In response to the attack on the social worker, the Legislature in 2005 created a work group to develop policies and protocols to address worker safety and to make recommendations for training to respond to the sometimes volatile, hostile, and threatening situations faced by social workers. The work group provided its report to the Legislature in December 2005, and recommended two changes to current laws related to on the job injuries and stalking of persons performing official job duties.

Reimbursement for Employees Assaulted on the Job. Certain groups of state employees are entitled to reimbursement when they are assaulted in the course of their job duties and miss work as a result of their injuries. Employees of the following state agencies who work with confined populations are eligible for such reimbursement:

1) Department of Veterans' Affairs;
2) Department of Natural Resources;
3) Department of Corrections; and
4) Department of Social and Health Services.

Employees of the Department of Transportation who sustain injury and miss work as a result of assaults by motorists also are entitled to reimbursement. For all departments, the amount of an employee's reimbursement is limited to the difference between the employee's regular pay and the amount paid under workers' compensation.

Felony Stalking. Stalking is the intentional harassment or following of another person which creates the fear of injury to person or property when the stalker intends to frighten, intimidate or harass, or when the stalker knows or reasonably should know the other person is afraid, intimidated, or harassed. Stalking is a misdemeanor unless certain conditions apply making the offense a class C felony.

Those conditions include when the person being stalked is one of the following individuals and is being stalked in retaliation for some act performed during the course of performing official duties or to influence the person's future performance of official duties:

1) law enforcement officer;
2) judge;
3) juror;
4) attorney;
5) victim advocate:
6) legislator; or
7) community corrections officer.

Summary: The two recommendations for changes to current laws from the worker safety work group created in 2005 are implemented.

Felony Stalking. Child protective, child welfare, and adult protective services workers are added to the list of persons for whom stalking constitutes a class C felony when done in retaliation for the person's conduct of official duties or when done to influence the future performance of official duties.

Reimbursement Program. Employees of the Department of Social and Health Services (DSHS) who provide child protective, child welfare, and adult protective services and who are assaulted and injured on the job are added to the list of state employees who are entitled to receive reimbursement under the following conditions:

1) the employee was assaulted during the course of performing official duties and has sustained injury causing the employee to miss days of work;
2) the assault is not attributable to the employee's negligence, misconduct, or failure to comply with rules; and
3) the Department of Labor and Industries has approved a workers' compensation application for the injured employee.

The amount of reimbursement is limited to an amount that, when added to the employee's workers' compensation payment, equals the employee's full pay for the workdays missed. An employee is eligible for reimbursement for up to 365 days. Reimbursement payments must be made by the DSHS from the same appropriation and in the same manner as other salary and wage expenses. If the Legislature revokes the reimbursement in the future, no entitlement or contractual right to the reimbursement exists.

Implementation of Other Recommendations. The DSHS must report to the Legislature by December 2, 2006, regarding implementation of other recommendations from the work group regarding worker safety.

Votes on Final Passage:

House	98	0	
Senate	46	0	(Senate amended)
House	97	0	(House concurred)

Effective: June 7, 2006

ESHB 3127

PARTIAL VETO

C 116 L 06

Regarding the center for the improvement of student learning and the education ombudsman.

By House Committee on Appropriations (originally sponsored by Representatives Santos, Hasegawa, McCoy, P. Sullivan, McDermott, Upthegrove, Pettigrew and Morrell).

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

Background: Establishment of the Center for Improvement of Student Learning. In 1993, as part of education reform, the Legislature created the Center for Improvement of Student Learning (CISL) under the auspices of the Office of the Superintendent of Public Instruction (OSPI). The Legislature directed the CISL to serve as an education information clearinghouse. The Legislature also created a non-appropriated account to be used for any gifts, grants, or endowments for the CISL. In 1996, the Legislature expanded the CISL's role to include providing best practices research on programs and practices for improving reading instruction.

CISL's Funding History. When the CISL was created in 1993, the Legislature appropriated $400,000 from the State General Fund for the 1993-95 biennium to support its operations. An additional $500,000 was appropriated in the 1994 supplemental budget. For each of the 1995-97, 1997-99, and 1999-01 biennia, the CISL received a dedicated appropriation of $1.26 million. Each budget proviso stated that the funds were provided for technical assistance related to education reform through the OSPI, in consultation with the CISL.

In the 2001-03 biennial budget, the Legislature ceased providing dedicated funding for the CISL.

Summary: The Center for Improvement of Student Learning. The CISL is reactivated within the Office of the Superintendent of Public Instruction (OSPI).

The CISL is directed to: (1) serve as an information clearinghouse, including maintaining a website; (2) provide best practices research; (3) help inform educators regarding school boards' powers; (4) provide training and consultation services; (5) identify strategies to improve success rates of students in certain ethnic and racial groups; and (6) establish a model procedure to notify parents when students have not attended class or missed a day of school. The CISL may contract with others to help provide these services. Beginning September 1, 2007, the OSPI must report to the Legislature biennially regarding the CISL.

The Education Ombudsman's Office. The Office of Education Ombudsman is created within the Office of the Governor. The ombudsman must be qualified in public education law and policy, dispute resolution, and community outreach. Before appointing an ombudsman, the Governor must share information about the appointment with a six-person legislative committee. If sufficient funds are provided, the ombudsman must delegate and certify regional ombudsmen.

The duties of the ombudsman include providing information to the public regarding the public education system; developing parent involvement materials; identifying obstacles to greater parent and community involvement in schools; identifying strategies for improving success for student groups with disproportionate academic achievement; and referring or facilitating the resolution of complaints. The ombudsman will consult with various organizations and group in the conduct of its work.

The ombudsman and regional education ombudsmen will not be liable for acts associated with the good faith performance of their ombudsman's duties. The ombudsman must keep all matters under investigation confidential, except as necessary to perform the ombudsman's duties.

Annually, beginning September 1, 2007, the ombudsman will advise and make recommendations to the Legislature, Governor, and State Board of Education regarding use of the ombudsman's services, methods for the ombudsman to increase community involvement in public education, and ways to improve educational opportunities for all students.

Votes on Final Passage:

House	57	41	
Senate	28	15	(Senate amended)
House			(House refused to concur)
Senate			(Senate receded)
Senate	27	21	(Senate amended)
House	60	38	(House concurred)

Effective: June 7, 2006

Partial Veto Summary: The Governor vetoed the null and void clause because funding was appropriated in the Supplemental Budget for the act.

VETO MESSAGE ON ESHB 3127

March 20, 2006

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

Ladies and Gentlemen:

I am returning, without my approval as to Section 9, Engrossed Substitute House Bill No. 3127 entitled:

"AN ACT Relating to education."

Section 9 is a standard null and void clause. It is unnecessary in this instance as the Supplemental Budget included appropriations for this Act.

For these reasons, I have vetoed Section 9, of Engrossed Substitute House Bill No. 3127.

With the exception of Section 9, Engrossed Substitute House Bill No. 3127 is approved.

Respectfully submitted,

Christine O. Gregoire
Governor

SHB 3128
C 43 L 06

Regulating the sale of wine by a society or organization.

By House Committee on Commerce & Labor (originally sponsored by Representatives Kenney, Hankins, Conway, Chandler, Wood, Condotta, Newhouse and Springer).

House Committee on Commerce & Labor
Senate Committee on Labor, Commerce, Research & Development

Background: Tied-House Law. Under Washington's "tied-house" law, certain financial "ties" or business relationships are prohibited between alcohol manufacturers, importers, or distributors on the one hand and alcohol retailers on the other. Generally, a manufacturer or wholesaler, or person interested in such a business, may not have a financial interest in a licensed retail business. Retailers may not conduct their business on property owned by a manufacturer or wholesaler. The tied-house law also prevents an alcohol manufacturer or wholesaler from giving money, items of value, or credit to a retailer.

Special Occasion Licenses. A not-for-profit group organized and operated solely for charitable, religious, social, political, educational, civic, fraternal, athletic, or benevolent purposes may obtain a retail alcohol license called a special occasion license. The special occasion license allows the not-for-profit group to sell spirits, beer, and wine for on-premises consumption at a specified event, such as at picnics or other special occasions, at a specific date and place. Special occasion licensees are limited to sales of no more than 12 days per calendar year.

Summary: A not-for-profit group formed for the purpose of constructing and operating a facility to promote Washington wines may hold retail licenses on the facility property or lease all or any portion of such facility property to a retail licensee even when the members of the board of directors or officers for the not-for-profit organization include officers, directors, owners, or employees of a licensed domestic winery. Financing for the construction of the facility must include both public and private money.

A bona fide charitable nonprofit society or association registered under the federal Internal Revenue Code that has on its board of directors an officer, director, owner, or employee of a licensed domestic winery or a wine certificate of approval holder may hold a special occasion license to serve alcohol at a particular event.

Votes on Final Passage:

House	98	0
Senate	42	0

Effective: June 7, 2006

HB 3134
C 163 L 06

Determining the amount of compensation for temporary or permanent total disability.

By Representatives Conway, Wood, Chase and Kenney.

House Committee on Commerce & Labor
Senate Committee on Labor, Commerce, Research & Development

Background: The federal Social Security Act contains provisions to coordinate benefits received under more than one disability program. Social security disability benefits for persons under age 65 are reduced by the full amount of state or federal workers' compensation benefits also being paid to the individual. Federal law includes a "reverse offset" that permits the disability benefit reduction to be taken by a state's workers' compensation program rather than by the federal program. Federal law provides a formula for computing this reverse offset.

State law also allows the Department of Labor and Industries (Department) to reduce workers' compensation benefits for social security retirement benefits. Unlike the reverse offset for social security disability benefits, there is no corresponding federal law for the retirement benefit reduction. Under state law, the procedures for the retirement benefit reduction must comply with the procedures for the offset for social security disability benefits, except for procedures that relate to computation.

Summary: For a worker whose entitlement to social security retirement benefits is immediately preceded by an entitlement to social security disability benefits, the reduction for social security retirement benefits must be computed consistent with the formula set forth in federal law for computing the reverse offset for social security disability benefits.

For all other workers, the reduction for social security retirement benefits must be calculated to most closely follow the intent of the state law that sets forth the reverse offset for social security disability payments.

Votes on Final Passage:

House	96	0
Senate	44	0

Effective: June 7, 2006

SHB 3137
C 94 L 06

Determining benefits for surviving spouses of disabled Washington state patrol officers.

By House Committee on Transportation (originally sponsored by Representatives Lovick, Curtis, Clements, Hunt, Grant, Ericks, Conway, Morrell, Simpson and Kenney; by request of Department of Retirement Systems).

House Committee on Appropriations
House Committee on Transportation
Senate Committee on Transportation
Senate Committee on Ways & Means

Background: The Washington State Patrol Retirement System (WSPRS) covers all commissioned officers of the Washington State Patrol (WSP). The WSPRS was created in 1947, and until January 1, 2003, was the only state-administered retirement system that still contained many of the plan provisions that were altered or eliminated for new members in the creation of plans 2 or 3 in other retirement systems.

Members of WSPRS may retire at age 55 or after 25 years of service at any age. It is also the only plan operated by Washington with mandatory retirement at age 60.

The contribution rates for the members and employers of the WSPRS are equal; however, the member rate may be no less than 2 percent of pay. For the 2005-07 biennium, the contribution rate for both members and employers is 4.51 percent of pay.

For members who joined the WSPRS prior to January 1, 2003, the survivor allowance for post-retirement deaths is the lesser of 50 percent of the member's average final salary or the member's retirement allowance. In many cases, the survivor benefit will be less than the member's benefit at time of death, because it is based on a salary that may be 20 or more years old, and the members' benefit has been annually increased many times since. This basic survivor benefit for retired members does not require members to reduce their benefit; however, a member has the option of taking an actuarial reduction and having the survivor receive full continuation of that reduced benefit when the member dies.

Members of the WSPRS judged by the Chief of the Washington State Patrol to be disabled while performing line duty may be placed on disability leave for up to six months and then are placed on disability retirement status. A member on disability retirement status is entitled to receive a benefit of one-half of the existing wage during the time the disability continues in effect. When the existing wage for a position is increased during a disabled member's disability retirement, the disability benefit correspondingly increases.

The surviving spouse of a disabled member of WSPRS is eligible, similar to the surviving spouse of a retiree, for a benefit equal to the lesser of 50 percent of the member's average final salary or the member's earned retirement allowance. Similar to the survivor benefit for members that retire, average final salary has been interpreted to mean the member's average salary at the time the member left active duty, so the salary may be 20 or more years old by the time the disability survivor benefit is calculated. Because a disabled member may not have earned a retirement benefit based on an entire career of employment, it is more likely that his or her survivor would receive a benefit based on 50 percent of the member's average final salary.

In civil court actions claiming a breach of pension-related benefits, such as improper calculation of benefits, a three-year statute of limitations applies. The statute of limitations bars actions against the state for failure to pay pension benefits if the beneficiary fails to begin a legal challenge within three years.

The Department of Retirement Systems (DRS) is empowered at any time to correct administrative errors in retirement system member files to ensure that determinations, such as plan eligibility and benefit calculations, made for members and beneficiaries are correct.

In June of 2005, the DRS settled an individual lawsuit by increasing the monthly survivor allowance of a survivor of a disabled WSPRS member from 50 percent of the disabled member's average final salary at time of disablement to 50 percent of the equivalent current salary over the two years prior to the disabled member's death.

Summary: The average final salary, for purposes of calculating the survivor benefit for a member who entered WSPRS prior to January 1, 2003, and became disabled, is the average monthly salary received by active members of the WSP during the two years prior to the death of the disabled member.

The average final salary, for purposes of calculating the survivor benefit for a member who entered WSPRS on or after January 1, 2003, and became disabled, is the average monthly salary received by active members of the WSP during the five years prior to the death of the disabled member.

The cost of the increased contribution rates necessary to pay for the increased survivor benefits resulting from the change in definition of average final salary is, for members disabled prior to July 1, 2006, paid for solely by the employer.

The DRS is authorized to retroactively pay the higher survivor benefits for payments made prior to effective date of the act, and the impact of the increased benefits is excluded from the supplemental contribution rate process.

Votes on Final Passage:

House	98	0
Senate	43	0

Effective: June 7, 2006
July 1, 2006 (Section 3)

HB 3139
C 93 L 06

Clarifying kinship caregivers' consent for mental health care of minors.

By Representatives Pettigrew, Haler, Dickerson, Kagi, Dunn, Walsh, Darneille, Roberts, Hinkle, Morrell and Kenney.

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

Background: In Washington, a person has the right to make his or her own health care decisions. Under the principle of "informed consent," medical care must be explained to the patient so that he or she understands it and can make informed decisions. Treatment without consent, however, is allowed and will generally be provided in an emergency unless the patient indicates otherwise.

If the patient is determined to be incapacitated or incompetent to make health care decisions, a surrogate decision-maker must speak for him or her. If a person is under the age of 18, he or she is considered to lack capacity to make most health care decisions. However, a minor who is 13 years of age or older may make decisions regarding his or her mental health treatment.

For those decisions to which a minor is not given authority to consent by law, there is a specific hierarchy of decision-makers defined by statute. In 2005, the Legislature passed Substitute House Bill 1281 which expanded this list of persons who may provide informed consent for medical care. The following is the list of persons, in order of priority, who may consent to medical treatment on behalf of a minor:

1) a legal custodian or a guardian who has been appointed by a court;
2) a person authorized by the court to consent to health care during a court-ordered out-of-home placement;
3) parents of a minor child;
4) a person authorized to consent to health care by the minor's parent; and
5) an adult who represents himself or herself to be responsible for the health care of the minor or who has signed a declaration stating that he or she is a relative responsible for the care of the minor patient.

The legislation did not specify that informed consent for medical care includes consent for mental health care of a child.

Summary: Language is added to the informed consent statute to clarify that informed consent for medical care includes mental health care in situations where the minor is not able to consent because he or she is under the age of majority and is not otherwise authorized to provide consent.

Language is added to the mental health statutes pertaining to minors to permit a person who is authorized to give informed consent for medical care to authorize inpatient or outpatient mental health care of a minor child under the age of 13.

Votes on Final Passage:

House	98	0	
Senate	47	0	(Senate amended)
House	97	0	(House concurred)

Effective: June 7, 2006

SHB 3150
C 92 L 06

Concerning efforts to promote the wine industry.

By House Committee on Commerce & Labor (originally sponsored by Representatives Condotta, Linville, Kenney, Chase, Kessler, Conway, Holmquist, Morrell, Newhouse and Armstrong).

House Committee on Commerce & Labor
Senate Committee on Labor, Commerce, Research & Development

Background: Washington's "tied house" law prohibits manufacturers and their trade associations from partnering with retailers to promote their businesses. Prohibited practices include joint advertising, such as brochures that name both non-retail licensees and retail licensees.

Summary: Domestic wineries and retail licensees may jointly produce brochures and material promoting tourism which contain information about domestic wineries, retailers, and their products. They also may identify wineries on privately labeled wines sold by spirits, beer, and wine restaurants and private clubs.

Votes on Final Passage:

House	98	0
Senate	45	0

Effective: June 7, 2006

HB 3154
C 44 L 06

Concerning the retail sale of beer.

By Representatives Condotta, Wood and Newhouse.

House Committee on Commerce & Labor
Senate Committee on Labor, Commerce, Research & Development

Background: Domestic breweries and microbreweries ("breweries") are permitted to act as retailers for beer of their own production. Breweries are not prohibited from being licensed as a spirits, beer, and wine restaurant for the purpose of selling liquor for on-premises consumption at a restaurant on property on which the brewery's primary manufacturing facility is located or on contigu-

ous property. Breweries acting as retailers must comply with laws and rules applicable to retailers. For example, spirits, beer, and wine restaurant licensees may not sell alcohol for off-premises consumption. Consequently, breweries acting as spirits, beer, and wine licensees may not sell beer of their own production from taps for off-premises consumption.

Summary: Domestic breweries and microbreweries that hold spirits, beer, and wine restaurant licenses may sell beer of their own production for off-premises consumption from their restaurants. Beer may be sold in kegs or in other sanitary containers, such as growlers, that are filled from taps at the time of sale.

Votes on Final Passage:

House	98	0
Senate	44	1

Effective: June 7, 2006

HB 3156
C 91 L 06

Creating a pilot program to assist low-income families.

By Representatives Darneille, Haler, Dickerson, Morrell, Pettigrew and Simpson.

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

Background: Department of Community, Trade, and Economic Development. The Department of Community, Trade, and Economic Development (CTED) provides assistance to Washington's communities, businesses, and families. The CTED is organized into several different agencies, one of which is the Community Services Division. This division works to build community partnerships to provide service and advocacy for individuals and families.

The Community Services Division administers funds for anti-poverty programs including funds distributed to the Community Action Agencies. The Community Action Agency Network is a delivery system for federal and state anti-poverty programs in the state, including but not limited to the Community Services Block Grant Program, the Low-income Energy Assistance Program, and the federal Department of Energy Weatherization Program. The Community Action Agency Network is comprised of local Community Action Agencies that serve low-income persons in the counties.

Asset Building Programs. According to the U.S. Department of Health and Human Services, asset building is an anti-poverty strategy that helps low-income people move toward greater self-sufficiency by accumulating savings and purchasing long-term assets. Examples of long-term assets include a home, higher education and training, and a business.

Asset building strategies incorporate many different approaches and use a variety of methods to help achieve the goal of creating asset wealth for low-income people. Some of the most common tools for asset building include the following:

- Individual Development Accounts (IDAs) – Matched savings accounts designed to help low-income and low-wealth families accumulate savings for high return investments in long-term assets such as a house, higher education, or a small business.
- Earned Income Tax Credit (EITC) – Refundable federal income tax credit for low-income workers. The EITCs enable many low-income tax filers to receive a cash payment from the government regardless of whether they pay income taxes.
- Financial Literacy – Skills and knowledge that successfully enable individuals to manage their finances.

Summary: Asset Building Program. The Department of Community, Trade, and Economic Development (CTED) must offer consulting services to Community Action Agencies who are interested in developing pilot programs to assist low-income families to accumulate assets. The Community Action Agencies are encouraged to facilitate bringing together community partners to determine the asset building programs to initiate within the community.

"Asset" or "asset building" is defined to mean an investment or saving for an investment in a family home, higher education, small business, or other long-term asset that will assist low-income families to attain greater self-sufficiency.

The CTED must select four pilot sites to whom it will offer consulting services, with at least one of the pilot sites located in eastern Washington. The CTED will select the pilot sites through an application process which must begin by July 31, 2006.

A Community Action Agency may submit an application to be selected as a pilot site. The application must include the following:

- identification of the local agency that will be the lead agency for the pilot program;
- identification of the community partners with whom the Community Action Agency will be collaborating and a description of how the lead agency will work with community partners to implement the program activities;
- identification of the areas of potential need based upon input from the community partners. Areas of potential need may include financial literacy, assistance with federal income tax preparation and the use of tax credits, the use of individual development accounts, and other asset-building strategies; and
- identification of the resources within the community that might support training for the implementation of the selected best practices chosen to address the needs identified by the community.

The CTED must report to the Legislature by December 1, 2007, on the progress of the implementation of the program including the application process, the status of the program, and any implementation issues that arose while initiating the program.

Earned Income Tax Credit. To the extent funding is appropriated, the CTED must establish a program to create an outreach campaign to increase the number of eligible families who claim the federal Earned Income Tax Credit. The CTED may work collaboratively with other state agencies, private and nonprofit agencies, local communities, and others with expertise that might assist the CTED in implementing the program.

Expiration Date. The asset building and Earned Income Tax Credit programs expire on January 1, 2008.

Votes on Final Passage:

House	93	5	
Senate	48	0	(Senate amended)
House	96	1	(House concurred)

Effective: June 7, 2006

EHB 3159

PARTIAL VETO

C 354 L 06

Modifying the excise taxation of food products.

By Representatives Linville, Newhouse, Grant, Kessler, Orcutt, Chandler, Dunn and Kristiansen.

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. The B&O tax rate depends on the activities conducted. The most common rates are 0.471 percent for retailing activities, 0.484 percent for wholesaling and manufacturing, and 1.5 percent for services. There is a lower rate of 0.138 percent for dairy product manufacturing and seafood product manufacturing where the seafood products remain in a raw, raw frozen, or raw salted state at the completion of the manufacturing process.

In the 2005 session the Legislature adopted tax incentives for the fruit and vegetable manufacturing industry. A B&O tax exemption was provided for the canning, preserving, freezing, processing, or dehydrating fresh fruits and vegetables, and for selling at wholesale fresh fruits and vegetables canned, preserved, frozen, processed, or dehydrated by the seller and sold to purchasers who transport the goods out of this state in the ordinary course of business.

A new sales and use tax deferral program was created for fruit and vegetable product cold storage warehousing and related research and development businesses. This program starts July 1, 2007, and expires July 1, 2012.

Firms using the B&O exemption and the sales tax deferral are required to complete an annual survey and provide information on the amount of B&O tax exempt; sales and use tax deferred; number of jobs and the percent of full-time, part-time and temporary jobs; wages by salary band; and number of jobs with employer-provided health and retirement benefits. The survey is due each year by March 31.

In addition, starting July 1, 2007, fresh and/or frozen perishable fruit or vegetable cold storage warehouses of at least 25,000 square feet are added to the warehouse tax remittance program. The remittance is 100 percent of the state sales tax on construction of the warehouse and purchases of material-handling and racking equipment. The taxpayer must initially pay all applicable taxes and then apply for reimbursement to the Department of Revenue (Department).

Several firms are located in Washington that store, inspect, test, and label canned salmon that was canned outside of Washington. These firms store, in warehouses, the canned salmon owned by the out-of-state salmon-canning companies. When receiving appropriate instructions from the owner, the labeler will select a particular batch and inspect, weigh, and vacuum test the cans. The labeler will then label all cans that have passed inspection and package the cans in boxes to be shipped to customers of the salmon-canning companies.

In September 2005, the Department issued an Excise Tax Advisory (ETA) concerning firms that store, inspect, test, and label canned salmon owned by others. The ETA provides that the activity of inspecting, testing, and labeling of canned salmon falls under the general service classification of the B&O tax and is subject to a 1.5 percent rate; the storage of the cans is subject to the warehousing rate of 0.484 percent. Before the issuance of the ETA, at least two taxpayers had been reporting the activities other than warehousing under the processing for hire classification at a 0.484 percent rate. The ETA also clarified that the firms conducting the testing activities were eligible for the exemption from sales and use taxes on machinery and equipment used directly to inspect and test the cans. Finally, the ETA provided that retail sales and use taxes were due on sales of labels and packaging materials to the labelers.

Summary: Tax exemptions adopted for fruit and vegetable product manufacturing and cold storage warehousing in 2005 are extended to seafood and dairy manufacturing and cold storage warehousing of seafood and dairy products.

The B&O tax exemption is extended to seafood product and dairy product manufacturing. The exemption applies only to seafood products which remain in a raw, raw frozen, or raw salted state at the completion of

the manufacturing process. This exemption also applies to the selling of product to purchasers who transport the goods out of this state. These new exemptions, plus the fresh fruits and vegetables exemption, are ended July 1, 2012, and a tax rate of 0.138 percent is established for these activities.

The sales and use tax deferral program for fruit and vegetable processing, cold storage warehousing, and related research and development businesses is expanded to include seafood and dairy product manufacturing.

Firms using the B&O exemption and the sales tax deferral are required to complete an annual survey and provide information on the amount of B&O tax exempt; sales and use tax deferred; number of jobs and the percent of full-time, part-time and temporary jobs; wages by salary band; and number of jobs with employer-provided health and retirement benefits. The survey is due each year by March 31.

The Department may extend the March 31 filing deadline for surveys by firms using the B&O exemption and the sales tax deferral if the failure to file is the result of circumstances beyond the control of the taxpayer. These firms must electronically file their forms with the Department.

Cold storage warehouses of at least 25,000 square feet that are used to store dairy and seafood products are added to the warehouse tax remittance program. The remittance is 100 percent of the state sales tax on construction of the warehouse and purchases of material-handling and racking equipment. The warehouse sales tax remittance program for cold storage warehouses used to store fruit or vegetables, dairy products, and seafood products is ended on July 1, 2012.

Firms who inspect, test, label, and store canned salmon owned by others are subject to B&O tax at a 0.484 percent rate. These firms are also exempt from paying retail sales and use taxes on materials used to label canned salmon and on materials used to package canned salmon.

Votes on Final Passage:

House	90	5	
Senate	42	3	(Senate amended)
House	97	1	(House concurred)

Effective: July 1, 2006

Partial Veto Summary: The retail sales and use tax exemption for materials used to label canned salmon and on materials used to package canned salmon is vetoed.

VETO MESSAGE ON EHB 3159

March 30, 2006

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

Ladies and Gentlemen:

I am returning, without my approval as to Sections 14 and 15, Engrossed House Bill No. 3159 entitled:

"AN ACT Relating to the excise taxation of food products."

Sections 14 and 15 of this bill provide a sales and use tax exemption on material used to package canned salmon. That material includes items that affix the label to the labeled product, or items that become a component of the label, such as clear wrap, boxes, tape, box labels, glue, and ink.

With the exception of materials used to pack fresh perishable horticultural products for farmers, custom packers are consumers of packing materials and the purchase or use of such materials is subject to the retail sales and use tax. Consequently, I am concerned with providing a sales and use tax exemption for packing materials used by persons subject to the preferential rate for canned salmon. Such persons are custom packers. Providing a limited exemption for these materials sets a precedent for other custom packers who desire similar sales and use tax exemptions.

The 2005 tax breaks for the fruit and vegetable processors were enacted to help an industry that was in obvious trouble and in need of temporary aid to help turn around the industry's fortunes. That legislation was not intended to create a template for getting tax breaks for other industries. Rather, it was intended to help a Washington industry in dire straits. Washington's seafood processing industry appears to be healthy and does not need this kind of help from the state.

For these reasons, I have vetoed Sections 14 and 15 of Engrossed House Bill No. 3159.

With the exception of Sections 14 and 15, Engrossed House Bill No. 3159 is approved.

Respectfully submitted,

Christine O. Gregoire
Governor

SHB 3164
C 281 L 06

Increasing the head of a family personal property tax exemption amount.

By House Committee on Finance (originally sponsored by Representatives Kilmer, Kristiansen, Linville, Bailey, Pettigrew, P. Sullivan, Dunn, Ericks, Appleton, Green, Morrell, Sells and Simpson).

House Committee on Finance
Senate Committee on Ways & Means

Background: All property in this state is subject to the property tax each year based on the property's value, unless a specific exemption is provided by law. Property taxes apply to both real property (real estate) and personal property (all other property that is not real estate). Household goods and business inventories are exempt from tax by statute. Thus, taxable personal property consists mainly of office and business equipment.

The State Constitution authorizes the Legislature to exempt personal property to the amount of $3,000 for each head of a family. This exemption was increased from $300 by a constitutional amendment approved by the voters in 1988. The Legislature has enacted this exemption in statute. Under rules of the Department of Revenue, a head of a family means an individual, not an entity such as a corporation, limited liability company, or

a partnership. The following persons are eligible as a head of a family under the rules: Any person receiving an old age pension under the laws of this state; any citizen of the United States, over the age of 65, who has resided in the state of Washington continuously for 10 years; a husband or wife, when the claimant is a married person, or a surviving spouse not remarried; and any person who resides with and provides care and maintenance for other family members as defined in the rule.

Summary: The personal property tax exemption for a head of family is increased to $15,000.

This act implements the constitutional amendment in House Joint Resolution 4223. The act will take effect on January 1, 2007 only if a proposed constitutional amendment Article VII, section 1 is approved by the voters.

Votes on Final Passage:

House	97	0
Senate	43	1

Effective: January 1, 2007

SHB 3178
C 164 L 06

Concerning collective bargaining by state ferry employees.

By House Committee on Commerce & Labor (originally sponsored by Representatives Murray and Woods; by request of Department of Transportation).

House Committee on Commerce & Labor
House Committee on Transportation
Senate Committee on Transportation

Background: Representatives of ferry workers in the Marine Transportation Division (Division) of the Washington State Department of Transportation (WSDOT), who are members of a collective bargaining unit represented by a ferry employee organization, bargain with the Division over wages, hours, working conditions, insurance, and health care benefits. By statute, the WSDOT is required, unless a bargaining agreement provides otherwise, to provide insurance and health care plans as determined by the State Health Care Authority. Employer contributions may exceed those for other state employees, subject to certain limits. Employer-funded retirement benefits are provided under the public employees retirement system and are not in the scope of bargaining.

Negotiations commence in each odd-numbered year immediately following the adoption of the biennial budget. By statute, agreements are intended to commence on July 1 of each odd-numbered year and terminate to coincide with the biennial budget year.

The first step in negotiations is to agree on impasse procedures, which must be implemented by July 1 in each odd-numbered year. If the parties fail to agree on procedures, the statutory mediation and arbitration procedures apply. The Marine Employees' Commission (MEC) may also provide certain fact-finding, including conducting a salary survey.

Under the statutory arbitration process, the arbitrator is restricted to the final offers of the parties on each impasse item and must consider various statutory factors in making its decision, including:

- past collective bargaining agreements;
- wage comparisons with other west coast operations doing comparable work, giving consideration to factors peculiar to the area and classifications involved;
- interests of the public;
- the ability of the ferry system to finance economic adjustments and the effect on the standard of service;
- the right of the Legislature to appropriate and limit funds for the ferry system; and
- limitations on ferry toll increases or operating subsidies as the Legislature may impose.

No agreement or arbitration award is valid if it is inconsistent with statutory limitations, such as a budget limitation. Within five days after negotiations are concluded with all ferry worker bargaining units, the Secretary of Transportation must review the agreements to determine whether the cumulative fiscal requirements are within statutory limits. If the Secretary finds that limits will be exceeded, the agreements or awards are submitted to the MEC for a binding determination. The MEC may order across-the-board reductions if it finds that the limits will be exceeded.

The Transportation Commission may not increase ferry tolls more than the Seattle consumer price index to fund a collective bargaining agreement.

It is unlawful for ferry workers or employee organizations, directly or indirectly, to induce or participate in a strike, and it is unlawful for the ferry system to authorize or condone a strike or conduct a lockout.

Summary: Various changes are made in the collective bargaining law that applies to ferry workers, including requiring the negotiation process to begin before the adoption of the relevant biennial budget and requiring review of the funding request and submission of approved requests in the Governor's budget.

Bargaining Process. The employer, for purposes of bargaining with the collective bargaining representative of ferry workers, is the state of Washington. The employer is represented by the Governor or Governor's designee.

Beginning with an agreement for the 2007-2009 biennium, negotiations may commence at any time after the act's effective date and must conclude by October 1, 2006. For subsequent biennia, negotiations must commence about September 1 of each odd-numbered year and must conclude by April 1 of the following year. If not concluded by April 1, the parties are considered at impasse. For these negotiations, the time periods must

ensure that all agreements are concluded by September 1 of the even-numbered year. However, the time periods may be altered by the parties. It is stated to be legislative intent that agreements should coincide with the biennial budget year.

Two or more ferry employee organizations may, on agreement of the parties, negotiate as a coalition for a multiunion agreement.

With respect to conflicts in provisions relating to wages, hours, and terms and conditions of employment, the collective bargaining agreement prevails over executive orders, rules, or policies. The agreement is invalid if it conflicts with any statute.

Impasse and Interest Arbitration. The first step in negotiations is to agree on impasse procedures, which must be implemented by April 15 (instead of July 1) in each even-numbered year. If the parties fail to agree on procedures, the statutory mediation and arbitration procedures apply. The MEC's authority to provide fact-finding is deleted, except for conducting a salary survey.

Under the statutory arbitration process, the arbitrator is limited to deciding between the final offers of the parties on each impasse item, unless the parties have agreed to allow the arbitrator to issue a decision it deems just and appropriate on each impasse item. The statutory factors that the arbitrator must consider in making its decision are modified and include:

- past collective bargaining agreements;
- the constitutional and statutory authority of the employer;
- the stipulations of the parties;
- the results of the salary survey;
- wage comparisons with other west coast operations doing comparable work, giving consideration to factors peculiar to the area and classifications involved;
- changes in circumstances during the proceedings;
- limitations on ferry toll increases or operating subsidies as the Legislature may impose; and
- other factors that are normally taken into consideration.

The arbitration award is not binding on the Legislature and, if the Legislature does not approve the funding, is not binding on the state or ferry employee organization.

A provision is added to provide that the interest arbitration proceeding is exercising a state function.

Approval of Funding. The Secretary of Transportation's procedures for review of all ferry worker collective bargaining agreements are repealed. The Transportation Commission's authority to increase ferry tolls to fund a collective bargaining agreement or arbitration award is repealed.

Before submitting a funding request to the Legislature, the request must be submitted to the Director of the Office of Financial Management by October 1 prior to the legislative session in which it will be considered, and the Director must certify the request as feasible financially for the state. The Governor submits a certified request for funds to implement the compensation and fringe benefits provisions as part of the Governor's proposed budget.

The Legislature must approve or reject the request for funds as a whole. If the Legislature rejects or fails to act on the request, either party may reopen all or part of the agreement, or the exclusive bargaining representative may initiate mediation and arbitration procedures.

If, after the agreement is funded, a significant revenue shortfall occurs resulting in reduced appropriations (by Governor proclamation or Legislative resolution), both parties must immediately enter into negotiations for a mutually agreed-to modification of the agreement.

Application. The new provisions are prospective only and do not apply to agreements in effect or to bargaining and related proceedings that began or arise under the previous law. A collective bargaining agreement under the new provisions may not take effect before July 1, 2007.

Votes on Final Passage:

House	96	2	
Senate	47	0	(Senate amended)
House	94	1	(House concurred)

Effective: March 21, 2006
July 1, 2006 (Section 10)

SHB 3182
C 90 L 06

Concerning tribal foster care licensing.

By House Committee on Children & Family Services (originally sponsored by Representatives Pettigrew and Santos).

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

Background: In order to place a child into a foster care home, the home must be licensed by the Department of Social and Health Services (DSHS). The DSHS has established standards and requirements that must be met in order for the home to be licensed.

In placing a child into a foster home, the DSHS must comply with state and federal law. The Indian Child Welfare Act (ICWA) is a federal law that applies to custody proceedings in state court involving Indian children. The ICWA requires that there be a preference for placing an Indian child with extended family or, if family is unavailable, a placement approved by the tribe. Additionally, ICWA states that the licensing of a foster home by an Indian tribe is deemed to be the equivalent to licensing by the state for federal funding purposes. For the purposes of federal funding, a foster family home may include homes located on or near Indian reserva-

tions that are licensed by a tribal licensing or approval authority.

Washington state law recognizes the authority of Indian tribes to license foster and adoptive homes within the boundaries of a federally recognized Indian reservation and that the state may place children in those facilities if criminal background checks have been done.

Summary: The ability of an Indian tribe to license foster care homes and place foster children into the homes is expanded. Tribes may enter into agreements with the Department of Social and Health Services (DSHS) to define the terms under which the tribe may license agencies located on or near the federally recognized Indian reservation to receive children for control, care, and maintenance outside their own homes, or to place, receive, arrange the placement of, or assist in the placement of, children for foster care. If an Indian tribe does not have reservation land, it may license foster care homes within its federally recognized service delivery area.

The agreements must include a definition of what are the geographic boundaries of the Indian tribe for the purposes of licensing and may include locations on or near the federally recognized Indian reservation.

The definition of agency is amended to state that an agency licensed by an Indian tribe to provide care for foster children is not considered an agency for the purposes of the statutes relating to licensing and investigation of facilities providing care for foster children.

The DSHS and its employees are immune from civil liability for damages arising from the conduct of the agencies licensed by a tribe.

Votes on Final Passage:

House	98	0	
Senate	48	0	(Senate amended)
House	96	1	(House concurred)

Effective: June 7, 2006

SHB 3185
C 89 L 06

Concerning violations of wage payment requirements.

By House Committee on Commerce & Labor (originally sponsored by Representative McCoy).

House Committee on Commerce & Labor
Senate Committee on Labor, Commerce, Research & Development

Background: The state Minimum Wage Act and other laws establish standards for the payment of wages. These standards are enforced by the Department of Labor and Industries (Department), which has authority to investigate wage violations, order the payment of wages owed to workers, and bring civil actions to collect wages. The Department also may take assignments of wage claims and prosecute actions for employees who are financially unable to employ counsel. Employees are also permitted to bring civil actions to collect unpaid wages. Criminal penalties apply to certain violations.

An employer who pays an employee less than the amount to which the employee is entitled is liable in a civil action to the employee, even if the employee agreed to work for less. If the employee is successful in obtaining a judgment for wages owed, attorneys' fees are assessed against the employer, unless the recovery is equal to or less than the amount the employer admitted to be owing.

An employer is also liable in a civil action to the employee or employee's assignee for collecting a rebate from employees' wages and for paying a lower wage than obligated by law or contract when the paying of lower wages is willful and is done with intent to deprive. In this case, the employer is subject to exemplary damages of twice the amount of wages withheld.

A three-year statute of limitations applies to a number of causes, including an action on an unwritten contract. The statute of limitations is six years for an action on a written contract. The statute of limitations is two years for an action with no other limit specified.

Summary: If an employee files a wage complaint, the Department of Labor and Industries (Department) must investigate the complaint. A "wage complaint" is a complaint from an employee to the Department that an employer has violated one or more wage payment requirements. A "wage payment requirement" includes the requirements to pay minimum wages, overtime compensation, and final wages, and the requirement to withhold only lawful deductions from wages.

The Department must issue either a citation and notice of assessment (citation) or a determination of compliance (determination) no later than 60 days after receiving the complaint and within three years after the date when the wages were due.

The Department may order the employer to pay employees all wages owed, including interest of 1 percent per month. If the violation is willful, the Department may also order the employer to pay a civil penalty.

Civil penalties for willful violations of wage payment requirements must be the greater of $500 or 10 percent of unpaid wages, but not more than $20,000. Civil penalties must be deposited in the Supplemental Pension Fund.

The Department may not assess civil penalties if the employer reasonably relied on a rule or an interpretive or administrative policy. In addition, an employer is immune from civil penalties if the employer reasonably relied on a written order, ruling, approval, opinion, advice, determination or interpretation of the director of the Department. Records of such written orders, rulings, approvals, opinions, advice, determinations, and interpretations must be maintained by the Department.

The Department must waive civil penalties if the employer paid the wages owed, including interest, within 10 business days of receiving the citation. The Department may waive civil penalties if the employer paid the wages owed.

An employee who has accepted payment of the wages owed, including interest, is barred from initiating or pursuing other actions based on such requirements.

An employee who has filed a wage complaint may elect to terminate the Department's administrative action and preserve a private right of action by providing written notice to the Department within 10 business days of the Department's issuance of a citation. If the employee elects to terminate the Department's administrative action, the Department must discontinue its action against the employer and vacate a citation already issued. The citation, related findings of fact or conclusions of law, and payments or offers of payment are not admissible in other proceedings. The election of remedy provision does not limit another employee's right to pursue an action or the Department's right to pursue an action with respect to another employee identified as a result of a wage complaint or in the absence of a wage complaint.

Procedures are established for administrative review of citations, as well as collection of unpaid wages and civil penalties.

Votes on Final Passage:

House	98	0
Senate	46	0

Effective: June 7, 2006

SHB 3190
C 84 L 06

Providing tax incentives to support the semiconductor cluster in Washington state.

By House Committee on Technology, Energy & Communications (originally sponsored by Representatives Wallace, Fromhold, Curtis, Orcutt, Moeller and Dunn).

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

Background: Retail sales and use tax and business and occupation (B&O) tax. The retail sales tax applies to the selling price of tangible personal property and of certain services purchased at retail. The use tax applies if retail sales tax has not been collected. Both the state and local governments impose sales and use taxes; the state rate is 6.5 percent and the average local rate is 2 percent statewide. Sales taxes are collected by the seller from the buyer at the time of sale. Use tax is remitted directly to the Department of Revenue (DOR). State revenues are deposited to the State General Fund.

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. A business may have more than one B&O tax rate, depending on the types of activities conducted. For example, the rate for most persons that conduct manufacturing or processing for hire activities is 0.484 percent.

Unless specifically exempt, all transactions or uses of property or services in the tax base are subject to retail sales and use taxes, and all business activity in the B&O tax base are subject to the B&O tax.

Semiconductor cluster incentives. In the 2003 session the Legislature enacted a package of incentives for manufacturers of semiconductor materials, including silicon crystals, silicon ingots, raw polished wafers, compound semiconductors, integrated circuits, and microchips. The incentives are contingent upon a major investment in a microchip fabrication facility in the state. The package includes:

- a preferential B&O tax rate of 0.275 percent;
- an exemption for gases and chemicals used in semiconductor manufacturing from retail sales and use tax;
- an exemption for the construction of new semiconductor manufacturing buildings from retail sales and use tax;
- a B&O tax credit of $3,000 for each employment position in semiconductor manufacturing production; and
- an exemption for machinery and equipment used in manufacturing semiconductor materials from property taxation.

Firms using the incentives are required to provide an annual report detailing employment, wages, and employer-provided health and retirement benefits at the manufacturing site. The report may be disclosed to the public upon request. In addition, the fiscal committees of the Legislature are required to evaluate the effectiveness of the incentive program five and then 11 years after the incentives become effective.

Availability of the semiconductor incentives is contingent upon a determination by the DOR that a contract has been signed for an investment of at least $1 billion in a semiconductor microchip manufacturing facility. After becoming effective, the incentives expire 12 years later. As of January 2006, no determination had been made.

Recent semiconductor market activity in Washington. In December 2004, the parent company of Shin-Etsu Handotai (SEH) announced plans for a new manufacturing facility for 300 millimeter (mm) wafers in Vancouver, Washington. According to the company's web site, SEH was the largest producer of silicon wafers at the end of 2004 and seeks to increase its manufacturing capacity for the 300mm wafers from 300,000 per month worldwide to 500,000 per month worldwide by the end of 2006.

Shin-Etsu Handotai maintains a semiconductor materials manufacturing facility in Vancouver, first opened in 1980, that produces single-crystal silicon ingots and polished and epitaxial wafers and provides technical support for its customers.

Summary: A new package of tax incentives is provided to certain semiconductor material manufacturers, contingent upon a large investment in new or expanded semiconductor manufacturing facilities in the state.

Persons that manufacture or process for hire semiconductor materials are subject to tax under the B&O tax at a rate of 0.275 percent. Semiconductor materials include silicon crystals, silicon ingots, raw polished semiconductor wafers, and compound semiconductor wafers. Persons that manufacture semiconductor materials are also exempt from retail sales and use taxes on the acquisition of gases and chemicals used in the production of semiconductor materials.

Persons that utilize the incentives must submit an annual report by April 30 of each year to the DOR. The legislative fiscal committees are required to evaluate the effectiveness of the incentives. The report, legislative evaluation, and administrative requirements are similar to those under the 2003 legislation pertaining to semiconductor materials manufacturing incentives, but include a few modifications. An extension in submitting the report is allowed if good cause is shown. The report must also be submitted electronically, unless the taxpayer demonstrates to the DOR that, for good cause, it is unable to do so.

The incentive package is contingent upon the investment in the state by an advanced semiconductor materials fabrication concern of at least $350 million. The funds must be invested in new buildings, the expansion or renovation of existing buildings, tenant improvements to buildings, or machinery and equipment in the buildings. The purpose of the investment must be to manufacture advanced semiconductor materials. Advanced semiconductor materials are silicon crystals, and, if at least 300mm in diameter, silicon ingots, raw polished semiconductor wafers, and compound semiconductor wafers. The incentives become effective the month after the DOR determines that the $350 million investment has been made by the time that commercial production began.

Votes on Final Passage:

House 89 9
Senate 46 1

Effective: June 7, 2006
Contingent (Sections 2-8)

EHB 3192
C 88 L 06

Authorizing a contract extension for reimbursement by property owners for street, road, and water or sewer projects.

By Representatives B. Sullivan, Ericks and Sells.

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

Background: Cities, towns, and water-sewer districts are authorized to enter into contracts with developers and other property owners that create reimbursement procedures for the construction and/or funding of infrastructure improvements that exceed the scope or capacity necessary for a particular development or property. Such contracts may pertain to the construction or improvement by property owners of either street projects or water-sewer facilities.

Typically, such contracts involve situations in which a new property development necessitates the construction of additional infrastructure, and the developer agrees to provide infrastructure improvements on a scale sufficient to service the current development project as well as future development that is likely to occur in the area. In return, the contract provides that the developer will receive pro rata reimbursement from other developers or property owners who later benefit from the excess capacity provided by the infrastructure improvements. Such reimbursement agreements are limited to a period of 15 years.

As the result of various state and local regulations pertaining to the management of growth, local governments sometimes impose development restrictions that can delay the development of an area for up to several years. Such development delays may, in turn, have the effect of delaying the reimbursement due a developer or property owner who has funded infrastructure improvements in the restricted area under a contract with a city, town, or water-sewer district.

Summary: Subject to specified conditions, contracts by cities, towns, or water-sewer districts requiring pro rata reimbursement to a property owner for funding excess infrastructure capacity may be of a duration exceeding 15 years. However, the contract extension may not exceed the duration of pertinent legal constraints restricting applications for new development within the area benefitted by the excess infrastructure capacity.

Votes on Final Passage:

House 98 0
Senate 45 0

Effective: June 7, 2006

HB 3205
C 282 L 06

Clarifying the authority to apprehend conditionally released persons.

By Representatives O'Brien, Clements, Pettigrew, Santos, McDermott, Ericks, Sells, Kilmer, Green and Morrell.

House Committee on Criminal Justice & Corrections
Senate Committee on Human Services & Corrections

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

A sexually violent predator who has been civilly committed is entitled to an annual review of his or her condition. As part of this evaluation, a court may order that the person be conditionally released to a less restrictive alternative (LRA). An LRA placement is only authorized if it is in the best interests of the person and adequate safeguards can be put in place to protect the community.

In 2001, the Legislature authorized the DSHS to operate a type of LRA known as a secure community transition facility (SCTF). A variety of security measures are specified for SCTFs. For example, residents of a SCTF must wear electronic monitoring devices at all times. If a resident leaves an SCTF for employment or treatment, he or she must be accompanied by at least one SCTF staff member at all times. The DSHS is operating two SCTFs, one on McNeil Island and one in south Seattle.

If the prosecuting attorney, the supervising community corrections officer (CCO), or the court believes that a person on LRA status is not complying with the terms and conditions of his or her release, the court or the CCO may order the person to be apprehended. Once the person is apprehended, the court must schedule a hearing to determine whether the person's conditional release should be altered or revoked.

Summary: A law enforcement officer who has responded to a request for assistance from an employee of the DSHS may apprehend a person on LRA status if the officer reasonably believes that the person is not complying with the terms of his or her conditional release. The person may be detained in the county jail or may be returned to the SCTF.

Votes on Final Passage:

House	98	0
Senate	48	0

Effective: June 7, 2006

ESHB 3222
C 151 L 06

Modifying excise tax exemptions for the handling and processing of livestock manure.

By House Committee on Finance (originally sponsored by Representatives Pettigrew, Haler, Chandler, Kretz, Hinkle, Kristiansen, Holmquist and Linville).

House Committee on Finance
Senate Committee on Agriculture & Rural Economic Development
Senate Committee on Ways & Means

Background: Retail sales and use tax. The retail sales tax applies to the selling price of tangible personal property and of certain services purchased at retail. The use tax applies if retail sales tax has not been collected. Both the state and local governments impose sales and use taxes; the state rate is 6.5 percent and the average local rate is 2 percent statewide. Sales taxes are collected by the seller from the buyer at the time of sale. Use tax is remitted directly to the Department of Revenue (Department). State revenues are deposited to the State General Fund.

Water pollution control and animal feeding operations. The federal Clean Water Act (CWA) provides that the discharge of pollutants from point sources to surface waters is unlawful except in accordance with a National Pollutant Discharge Elimination System (NPDES) permit. The state Water Pollution Control Act requires any person who conducts a commercial or industrial operation which results in the disposal of liquid or solid waste material into waters of the state to obtain a permit. Waters of the state include both surface and ground waters.

Animal feeding operations (AFOs) are agricultural enterprises where animals are kept and raised in confined situations. Such operations congregate animals, feed, manure and urine, dead animals, and production operations on a small land area. Feed is brought to the animals rather than allowing the animals to graze or otherwise seek feed in pastures, fields, or on rangeland. There are approximately 450,000 AFOs in the United States. Concentrated animal feeding operations (CAFOs) are a relatively small number of AFOs that are regulated by the U.S. Environmental Protection Agency (EPA).

Dairy nutrient management and anaerobic digest-

ers. In 1998 the Legislature enacted the Dairy Nutrient Management Act (DNMA) to address water quality concerns associated with dairy farm nutrients. The legislation required that each dairy farm in the state develop and implement a nutrient management plan (NMP) that met standard specifications by December 31, 2003. Plans included both physical and management elements. Physical elements included items such as pumps, pipes, spray guns, lagoons, concrete pads and structures, gutters, and downspouts.

In 2001 the Legislature approved a retail sales and use tax exemption to help dairy farmers comply with the DNMA. Once a dairy nutrient management plan has been certified as fully implemented, the purchase of services and replacement equipment and parts necessary to maintain the plan are exempted from the retail sales and use tax. The same 2001 legislation also provided an exemption for the acquisition of anaerobic digesters for the primary purpose of treating dairy manure. Anaerobic digesters are facilities that use bacteria to process manure into biogas and dried manure in the absence of oxygen.

Recent regulatory activity. Since 2003, there have been statutory and rule changes at the state and federal levels that broaden dairy nutrient management requirements to also encompass certain livestock operations. In February 2003, the EPA adopted rules affecting the regulation of AFOs and CAFOs for the purposes of controlling water pollution. These rules expanded the type and number of CAFOs required to obtain NPDES permits.

In February 2005, the federal Second Circuit Court of Appeals (Court) issued a ruling that overturned aspects of the 2003 EPA rule. The Court vacated rule provisions that allow permitting authorities to issue permits to CAFOs without including the terms of the CAFO's NMP in the permit and without the NMP being reviewed by the permitting agency and available to the public. The Court also invalidated the provision that requires all CAFOs to apply for an NPDES permit unless they can demonstrate that they have no potential to discharge. The Court found that the "duty to apply" provision, which the EPA had based on a presumption that all CAFOs have at least a potential to discharge, was invalid, because the CWA subjects only actual discharges to regulation rather than potential discharges.

In response to the EPA rule change and the court ruling, the Department of Ecology (DOE) is developing a general CAFO NPDES permit to become effective in early 2006. The general permit will require large and certain medium CAFOs to develop and implement nutrient management plans by December 31, 2006.

Conservation Districts and Nutrient Management Plans. Conservation districts are a subdivision of state government engaged in various activities relating to the conservation of renewable natural resources. There are currently 46 districts statewide authorized to carry out surveys and research, educational and demonstration projects, preventative and control measures, and projects or programs for the conservation of renewable natural resources located within district boundaries. Districts provide technical and financial assistance to landowners to help plan and implement conservation practices.

Under the DNMA, conservation districts are required to provide technical assistance to dairy producers in developing and implementing dairy nutrient management plans and must review, approve, and certify such plans. Written plans are submitted for approval to the local conservation district where the dairy farm is located. Upon approval of the written plan and after the elements necessary to implement the plan have been constructed or put in place and are being used as designed and intended, the conservation district and dairy producer certify the plan.

Natural Resource Conservation Service Field Office Technical Guides. The Natural Resource Conservation Service (NRCS) is an agency within the United States Department of Agriculture. The NRCS issues Field Office Technical Guides (FOTGs) as primary scientific references containing technical information about the conservation of soil, water, air and related plant and animal resources. The FOTGs are localized for use by field offices to apply specifically to the geographic area for which they are prepared. Within each FOTG is a section detailing standards and specifications for various conservation practices, one of which is nutrient management.

Summary: The sales and use tax exemptions concerning dairy nutrient management equipment and anaerobic digesters are modified and broadened to include livestock operations.

Persons who are eligible for the exemption concerning nutrient management equipment include:

- licensed dairies with certified dairy nutrient management plans;
- animal feeding operations with a state waste discharge permit; and
- AFOs with nutrient management plans approved by a conservation district as meeting Natural Resource Conservation Service Field Office Technical Guide (FOTG) standards.

A conservation district is required to maintain a list of eligible AFOs with NMPs that have been approved by the district as meeting Natural Resource Conservation Service FOTG standards. The Department of Agriculture must provide a list to the Department of Revenue of eligible dairies with certified NMPs and AFOs with waste discharge permits.

Eligible projects are facilities and services necessary and used exclusively for a livestock NMP. An exemption for such equipment or facilities is available only after the NMP is certified under state law, approved as part of a state water pollution control permit, or approved by a conservation district as meeting Natural Resource

Conservation Service FOTG standards.

Persons eligible to receive an exemption on the acquisition of anaerobic digesters include those who use the equipment primarily to treat livestock manure. Anaerobic digesters qualify for exemption only if they are used primarily to treat livestock manure.

The Conservation Commission is required to compile information on NMPs approved by conservation districts during the 2005-2007 fiscal biennium and on the utilization of the tax incentives. The Commission must submit a report to the Legislature by December 2007.

Votes on Final Passage:

House 77 21
Senate 44 3

Effective: July 1, 2006

HB 3252
C 133 L 06

Prohibiting offenders who enter Alford pleas from receiving a special sex offender sentencing alternative.

By Representatives O'Brien, Rodne, Santos, Strow, Green, Simpson, McDonald, Morrell, Ericks, Kilmer, Williams and Hasegawa.

House Committee on Criminal Justice & Corrections
Senate Committee on Judiciary

Background: I. The Special Sex Offender Sentencing Alternative. In 1984, the Legislature created the Special Sex Offender Sentencing Alternative (SSOSA). A SSOSA sentence consists of a suspended standard range sentence, incarceration for up to 12 months, treatment for up to five years, and a term of community custody. An offender is eligible for a SSOSA sentence if: (1) he or she is convicted of a sex offense that is not a serious violent offense or rape in the second degree; (2) he or she has no prior felony sex offenses; (3) he or she has no prior adult violent offenses within five years of the current offense; (4) the current offense did not cause substantial bodily harm to the victim; (5) he or she has an established relationship or connection to the victim; and (6) his or her standard sentence range includes the possibility of incarceration for less than 11 years.

II. Alford Pleas. In *North Carolina v. Alford*, 400 U.S. 25 (1970), the United States Supreme Court ruled that the Constitution allows an offender to enter a plea of guilty without admitting guilt for the underlying crime. This type of plea has been come to be known as an "Alford plea."

Summary: In order to be eligible for a SSOSA, an offender who receives the alternative pursuant to a guilty plea must admit he or she committed the underlying offense. A SSOSA is not available to an offender who enters an Alford plea.

Votes on Final Passage:

House 97 0
Senate 41 0

Effective: June 7, 2006

EHB 3261
PARTIAL VETO
C 313 L 06

Strengthening the review process by the indeterminate sentence review board.

By Representatives O'Brien, Rodne, Dickerson, Clements, Haigh, Simpson, Pearson, McDonald, Ericks, Kilmer and Williams.

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

Background: I. Determinate-Plus Sentencing. In 2001, legislation was enacted that created a type of sentencing that has come to be known as "determinate-plus" sentencing. Determinate-plus sentencing applies to two groups of offenders: (1) offenders convicted of a first two-strikes sex offense; and (2) offenders who have a prior two-strikes offense in their criminal histories who are convicted of a subsequent sex offense that is not a two-strikes offense.

A court must sentence an offender convicted of a determinate-plus offense to a minimum term and a maximum term. The minimum term is generally equal to the standard range sentence. The maximum term is equal to the statutory maximum for the offense: life for class A felonies; 10 years for class B felonies; and five years for class C felonies.

The Indeterminate Sentence Review Board (ISRB) must evaluate the offender prior to the expiration of the minimum term. The ISRB must order the release of the offender upon expiration of the minimum term unless the offender is likelier than not to commit a sex offense if released. If the ISRB does not release the offender, it must re-evaluate the offender at least once every two years up to the offender's maximum term. If the ISRB releases the offender, the offender will be on community custody status for the remainder of his or her maximum term.

II. The Membership of the ISRB. The ISRB is composed of a chair and two other members, all appointed by the Governor.

Summary: I. Determinate-Plus Sentencing. When conducting a hearing regarding the possible release of a determinate-plus offender, the ISRB must provide opportunities for the victim of any crime for which the offender has been convicted to present oral, video, written, or in-person testimony to the ISRB. The procedure for victim input must be developed by rule. To facilitate

victim involvement, county prosecutor's offices must ensure that any victim impact statements and known contact information for victims of record are forwarded as part of the judgment and sentence.

II. The Membership of the ISRB. A vice-chair and one more member are added to the ISRB, both to be appointed by the Governor.

Votes on Final Passage:

House	98	0	
Senate	49	0	(Senate amended)
House			(House refused to concur)
Senate			(Senate receded)
Senate	40	0	

Effective: June 7, 2006

Partial Veto Summary: Removes the section that added two members to the ISRB. Removes the emergency clause.

VETO MESSAGE ON EHB 3261

March 29, 2006

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

Ladies and Gentlemen:

I am returning, without my approval as to Sections 1 and 3, Engrossed House Bill No. 3261 entitled:

"AN ACT Relating to strengthening the review process by the indeterminate sentence review board by adding two members to the board and allowing victims to provide input at board hearings involving offenders sentenced under RCW 9.94A.712."

The Indeterminate Sentencing Review Board (ISRB) is experiencing an increased caseload with the 2001 addition of indeterminate sentencing for sex offenders. New board members will be needed in the future. However, they are not critically needed at this time. In order for the ISRB to run efficiently with its current and projected caseloads, its current staffing and technology limits need to be improved before it adds new board members.

An emergency clause is also unnecessary. Because it is already the practice of the ISRB to provide victims the ability to participate in its hearing process, victims will not be harmed by any delay in enactment. The ISRB is fully supportive of the amendment to Chapter 9.95.420 RCW, and has agreed to comply with the requirements of the amendment in the interim before this bill takes effect.

For these reasons, I have vetoed Sections 1 and 3 of Engrossed House Bill No. 3261.

With the exception of Sections 1 and 3, Engrossed House Bill No. 3261 is approved.

Respectfully submitted,

Christine O. Gregoire
Governor

HB 3266
C 83 L 06

Designating state route number 169 as a highway of statewide significance.

By Representatives Rodne, Simpson, Anderson and Hudgins.

House Committee on Transportation
Senate Committee on Transportation

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

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

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

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

Summary: The 25.26 mile State Route 169 corridor from the Junction of SR 164 in Enumclaw, north via Black Diamond and Maple Valley and curving west, ending at the Junction of SR 900 in Renton is designated as a highway of statewide significance.

Votes on Final Passage:

House	96	2
Senate	44	1

Effective: June 7, 2006

HB 3277
C 122 L 06

Authorizing special verdicts for specified sex offenses against children and vulnerable adults.

By Representatives O'Brien, Rodne, Kirby, Williams, Darneille, Sells, Kessler, Lovick, Ericks, Simpson, Kilmer, Lantz, Anderson, Takko, Green, Moeller, Campbell, Morris, Hunt, Conway, Fromhold, Chase and Woods.

House Committee on Criminal Justice & Corrections
Senate Committee on Human Services & Corrections
Senate Committee on Ways & Means

Background: "Two-Strikes" Sex Offenses. In 1996, the Legislature enacted the "two-strikes" law, which imposed a life sentence upon certain repeat sex offenders. Under the two-strikes law, an offender convicted of a second two-strikes offense must be sentenced to life in prison without the possibility of release.

The following is a partial list of two-strikes offenses:

- *Child molestation in the first degree:* A person commits this crime if he or she has sexual contact with a child under age 12 if the perpetrator is at least 36 months older than the victim. Child molestation in the first degree is a class A felony with a seriousness level of X.
- *Indecent liberties with forcible compulsion:* A person commits this crime if he or she engages in sexual contact with another person by forcible compulsion. Indecent liberties with forcible compulsion is a class A felony with a seriousness level of X.
- *Kidnapping in the first degree with sexual motivation:* A person commits this crime when he or she, with sexual motivation, abducts another person with the intent to hold the person for ransom or reward, to facilitate the commission of a felony (or flight therefrom), to inflict bodily injury, to inflict extreme mental distress, or to interfere with the performance of a governmental function. Kidnapping in the first degree with sexual motivation is a class A felony with a seriousness level of X.
- *Rape in the first degree:* A person commits this crime if he or she engages in sexual intercourse with a victim by forcible compulsion and uses a deadly weapon, kidnaps the victim, inflicts serious physical injury, or feloniously enters the building or vehicle where the victim is situated. Rape in the first degree is a class A felony with a seriousness level of XII.
- *Rape in the second degree:* A person commits this crime if he or she engages in sexual intercourse with another person: (1) by forcible compulsion; (2) when the victim is incapable of consent by reason of being physically helpless or mentally incapacitated; (3) when the victim is developmentally disabled and the perpetrator has supervisory authority over the victim; (4) when the perpetrator is a health care provider and the intercourse occurs during a treatment session, consultation, interview, or examination; (5) when the victim is a resident of a facility for mentally disordered or chemically dependent persons and the perpetrator has supervisory authority over the victim; or (6) when the victim is a frail elder or vulnerable adult and the perpetrator has a significant relationship to the victim. Rape in the second degree is a class A felony with a seriousness level of XI.
- *Rape of a child (statutory rape) in the first degree:* A person commits this crime if he or she has sexual intercourse with a child under 12 if the person is at least 24 months older than the victim. Rape of a child in the first degree is a class A felony with a seriousness level of XII.
- *Rape of a child (statutory rape) in the second degree:* A person commits this crime if he or she has sexual intercourse with a child age 12 or 13 if the person is at least 36 months older than the victim. Rape of a child in the second degree is a class A felony with a seriousness level of XI.

Determinate-Plus Sentencing. In 2001, legislation was enacted that created a type of sentencing that has come to be known as "determinate-plus" sentencing. Determinate-plus sentencing applies to two groups of offenders: (1) offenders convicted of a first two-strikes sex offense; and (2) offenders who have a prior two-strikes offense in their criminal histories who are convicted of a subsequent sex offense that is not a two-strikes offense.

A court must sentence a determinate-plus offender to a minimum term and a maximum term. The minimum term is generally equal to the standard range sentence. The maximum term is equal to the statutory maximum for the offense: life for class A felonies, 10 years for class B felonies, and five years for class C felonies.

The Indeterminate Sentence Review Board (ISRB) must evaluate the offender prior to the expiration of the minimum term. The ISRB must order the release of the offender upon expiration of the minimum term unless the offender is likelier than not to commit a sex offense if released. If the ISRB does not release the offender, it must re-evaluate the offender at least once every two years up to the offender's maximum term. If the ISRB releases the offender, the offender will be on community custody status for the remainder of his or her maximum term.

For an offender sentenced to a determinate-plus sentence for any two-strikes offense (which are all class A felonies), this means that the offender may be incarcerated for life if he or she continues to fail his or her ISRB evaluations. If the offender is ever released, he or she will be on community custody for life.

Summary: For purposes of imposing a determinate-plus sentence, the minimum terms for child molestation in the first degree, indecent liberties with forcible com-

pulsion, kidnapping in the first degree with sexual motivation, rape in the first degree, rape in the second degree, rape of a child in the first degree, and rape of a child in the second degree, are increased as follows:

- Twenty-five years or the maximum of the standard range, whichever is greater, for child molestation in the first degree, rape of a child in the first degree, or rape of a child in the second degree, when the offense was "predatory." "Predatory" is defined as situations where: (1) the perpetrator was a stranger to the victim (unknown to the victim 24 hours prior to the offense); (2) the perpetrator established or promoted a relationship with the victim prior to the offense and the victimization was a significant reason the relationship was established; (3) the perpetrator was a teacher, counselor, volunteer, or other person in authority and the victim was a student of the school under the perpetrator's authority or supervision; (4) the perpetrator was a coach, trainer, volunteer, or other person in authority in any recreational activity and the victim was a participant in that activity under his or her authority or supervision; or (5) the perpetrator was a pastor, elder, volunteer, or other person in authority in any church or religious organization and the victim was a member or participant of the organization under the perpetrator's authority.
- Twenty-five years or the maximum of the standard range, whichever is greater, for indecent liberties with forcible compulsion, kidnapping in the first degree with sexual motivation, rape in the first degree, or rape in the second degree, when the victim was under the age of 15 at the time of the offense.
- Twenty-five years or the maximum of the standard range, whichever is greater, for indecent liberties with forcible compulsion, kidnapping in the first degree with sexual motivation, rape in the first degree, or rape in the second degree with forcible compulsion, when the victim was a person with a developmental disability, a mentally disordered person, or a frail elder or vulnerable adult.

A process is established for purposes of determining whether the offense was predatory, whether the victim was under the age of 15 at the time of the offense, or whether the victim was a person with a developmental disability, a mentally disordered person, or a frail elder or vulnerable adult. The prosecutor, when sufficient admissible evidence exists, must file a special allegation that the offense was predatory, the victim was under the age of 15 at the time of the offense, or the victim was a person with a developmental disability, a mentally disordered person, or a frail elder or vulnerable adult. The prosecutor has the burden of proving the special allegation beyond a reasonable doubt to the jury (or the judge if there is no jury). The prosecutor may not withdraw a special allegation without the permission of the court. The prosecuting attorney does not have to bring a special allegation that would lead to a 25-year minimum sentence if he or she determines, after consulting with a victim, that filing a special allegation is likely to interfere with the ability to obtain a conviction.

The 25-year minimum sentences do not apply to a juvenile tried as an adult.

Votes on Final Passage:

House	97	0	
Senate	45	1	(Senate amended)
House	97	0	(House concurred)

Effective: March 20, 2006
July 1, 2006 (Sections 5 and 7)

EHB 3278
C 12 L 06

Extending the deadline for the report by the joint legislative task force on unemployment insurance benefit equity.

By Representatives Conway and Dickerson.

House Committee on Commerce & Labor
Senate Committee on Labor, Commerce, Research & Development

Background: An individual is eligible to receive regular unemployment 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 seeking employment. An individual is disqualified from receiving benefits if he or she leaves work voluntarily without good cause.

The "good cause quit" section enumerates reasons for leaving work that are considered to be good cause and not disqualifying. In 2003 the Legislature enacted a number of changes to the unemployment insurance system, including changes to the "good cause quit" section. These changes limited the reasons considered to be good cause and not disqualifying. The new limits apply to unemployment claims that are effective on or after January 4, 2004. In a lawsuit filed in 2005, the new limits were challenged as unconstitutionally enacted.

Summary: The "good cause quit" section of the 2003 legislation is reenacted and made to apply retroactively to claims that have an effective date on or after January 4, 2004.

Votes on Final Passage:

House	94	3	
Senate	49	0	(Senate amended)
House	98	0	(House concurred)

Effective: June 7, 2006

SHB 3282
C 366 L 06

Creating the Hood Canal aquatic rehabilitation account.

By House Committee on Select Committee on Hood Canal (originally sponsored by Representatives Eickmeyer, Green, Haigh, Appleton, Kilmer, O'Brien, Lantz, McCoy, Chase, Miloscia, Clibborn and Ormsby).

House Committee on Select Committee on Hood Canal
House Committee on Capital Budget
Senate Committee on Ways & Means

Background: Hood Canal. Hood Canal is a glacier-carved fjord approximately 60 miles in length with approximately 180 miles of shoreline. Portions of Hood Canal have had low-dissolved oxygen concentrations for many years. In 2005, authority was provided to establish aquatic rehabilitation zones (ARZs) for areas whose surrounding marine water bodies pose serious environmental or public health concerns. The first ARZ, ARZ One, was created for the watersheds that drain into Hood Canal south of a line projected from Tala Point in Jefferson County to Foulweather Bluff in Kitsap County.

Hood Canal Rehabilitation Program. The Puget Sound Action Team (PSAT) is a state agency that develops and coordinates water quality programs for Puget Sound. The Hood Canal Coordinating Council (HCCC) is a group of county and tribal governments established to address water quality problems and natural resource issues in the Hood Canal watershed. The Legislature authorized development of the Hood Canal Rehabilitation Program (HCRP) in ARZ One in 2005. The PSAT is designated as the state lead agency for the HCRP. The HCCC is designated as the HCRP's local management board. The PSAT and HCCC must jointly coordinate a process to prioritize projects, studies, and activities based on the likely value in addressing and resolving Hood Canal's low-dissolved oxygen concentrations.

Summary: The Hood Canal Aquatic Rehabilitation Account (Account) is created in the State Treasury. The Account may be used only for programs and projects to protect and restore Hood Canal, including implementing the HCRP.

Votes on Final Passage:

House	95	1
Senate	48	0

Effective: June 7, 2006

ESHB 3316
C 167 L 06

Authorizing the issuance of general obligation bonds.

By House Committee on Capital Budget (originally sponsored by Representatives Dunshee, Linville, Grant and Kessler).

House Committee on Capital Budget
Senate Committee on Ways & Means

Background: Washington periodically issues general obligation bonds to finance projects authorized in the state capital and transportation budgets. General obligation bonds pledge the full faith and credit and taxing power of the state towards payment of debt service. Legislation authorizing the issuance of bonds requires a 60 percent majority vote in both the House of Representatives and the Senate.

Bond authorization legislation generally specifies the account or accounts into which bond sale proceeds are deposited, as well as the source of debt service payments. When debt service payments are due, the State Treasurer withdraws the amounts necessary to make the payments from the State General Fund and deposits them into the bond retirement funds.

The State Finance Committee, composed of the Governor, the Lieutenant Governor, and the State Treasurer, is responsible for supervising and controlling the issuance of all state bonds

Summary: The State Finance Committee is authorized to issue state general obligation bonds to finance three specific purposes.

Authority is provided for $59.3 million of bonds to expand prison capacity. Authority is provided for $200 million of bonds over five biennia for the Columbia River Basin Water Supply Development Program created in 2006. Authority is provided for $6.9 million of bonds for the rehabilitation of state parks on the Hood Canal. Authority is provided for $7.4 million of bonds for rehabilitation of state parks on the Puget Sound.

The State Treasurer is required to withdraw from state general revenues the amounts necessary to make the principal and interest payments on the bonds and to deposit these amounts into the Bond Retirement Account.

Votes on Final Passage:

House	90	7
Senate	47	0

Effective: March 22, 2006

HB 3317
C 73 L 06

Changing provisions relating to driving under the influence of intoxicating liquor or any drug.

By Representatives Ahern, Lantz, Lovick, Darneille, Chase, Williams, Hunter, Clibborn, Kilmer, Hudgins, Ericks, Simpson, Conway, Takko and Morrell.

Senate Committee on Judiciary

Background: DUI Law. Drunk driving (DUI) is a gross misdemeanor. The maximum confinement sentence for a gross misdemeanor is one year in jail. The DUI law contains a complex system of mandatory minimum penalties that escalate based on the number of prior offenses and the concentration of alcohol in the offender's blood or breath (BAC).

The penalties range from one day in jail for a first time offender with a BAC under 0.15, to 120 days in jail and 150 days of electronic home monitoring for an offender who has a BAC over 0.15 and has two or more prior offenses within seven years. In addition to mandatory jail time, the court must impose minimum fines ranging from $350 to $1,500 and license suspension ranging from 90 days (for a first time offender with a low BAC) to four years (for a multiple offender with a high BAC). A DUI offender is also subject to alcohol assessment, mandatory use of ignition interlocks, and probation.

A "prior offense" counts to increase an offender's sentence under the DUI laws if the arrest for that offense occurred within seven years of the arrest for the current offense. "Prior offenses" include convictions for: (1) DUI; (2) vehicular homicide and vehicular assault if committed while under the influence; (3) negligent driving after having consumed alcohol ("wet neg"), reckless driving, and reckless endangerment if the original charge for any of those offenses was DUI; and (4) any equivalent local DUI ordinance or out-of-state law. In addition, a deferred prosecution for DUI or "wet neg" counts as a prior offense even if the charges are dropped after successful completion of the deferred prosecution treatment program.

Felony Sentencing Under the Sentencing Reform Act. An adult who is convicted of a felony is sentenced under the provisions of the Sentencing Reform Act (SRA). The SRA has a sentencing grid in statute that provides a standard sentence range based on the seriousness level of the current offense and the offender's prior criminal history score. Unless the sentencing judge imposes an exceptional sentence upward or downward, the sentencing judge will sentence the offender to a period of confinement within that standard range. However, in no case may a sentence be longer than the maximum allowed by statute for a particular class of felony. For class C felonies, this maximum is five years in prison.

Felonies are "ranked" in the SRA from Level I (low) to Level XVI (high). An offender's criminal history score ranges from 0 to 9+ and is calculated based on numerous factors, including the number of prior felony convictions and the relationship between those prior convictions and the current offense. Some prior non-felony crimes can count toward an offender's score in sentencing for a current felony. "Serious traffic" offenses, which include DUI, are non-felony crimes that count when the current offense is a felony traffic offense. Prior felony traffic offenses, which include vehicular assault and vehicular homicide, count double when the current offense is also a felony traffic offense.

The SRA has "washout" periods that determine how long a prior conviction continues to count toward an offender's score. Class C felonies and serious traffic offenses wash out if the offender has spent five years without committing an offense since the date of his or her release from confinement.

At the time of sentencing, the court also imposes a term of community custody for offenders who have been convicted of an offense categorized as a "Crime Against Persons." Conditions of community custody and levels of supervision are based on risk. The court has discretion when setting the range of community custody, but generally, the range for a person convicted of a "Crime Against Persons" will be between nine to 18 months.

In addition, for offenses categorized as "Crimes Against Persons," an offender is eligible for up to one-third off as earned early release.

Juvenile Adjudications. The Juvenile Justice Act (Act) governs the disposition (or sentencing) of juvenile offenders. The Act contains a disposition grid with presumptive sanctions based on the seriousness of the offense and prior criminal history. Offenses are "categorized" (very much like ranking in the SRA) between Category E (least serious) through Category A+ (most serious). A DUI is categorized as a D offense. A juvenile adjudicated of DUI who has no prior criminal history will typically receive local sanctions. More serious offenders are subject to confinement in a state juvenile facility.

Summary: A DUI conviction is a class C felony if the offender: (1) has four or more prior offenses within 10 years; or (2) has ever been convicted of vehicular homicide while under the influence of alcohol or drugs or vehicular assault while under the influence of alcohol or drugs.

Felony DUI is a Level V offense. This means a DUI offender with four prior misdemeanor DUIs will receive a presumptive sentence range of 22 - 29 months.

Felony DUI is categorized as a "Crime Against Persons." This means the offender is eligible for earned early release not to exceed one-third of his or her sentence, and the community custody provisions apply.

An offender is not eligible for the first time offender

waiver program, DOSA, or work ethic camp. The court must order the offender to undergo treatment during incarceration. The offender is liable for the costs of treatment unless the court finds the offender indigent and no third-party insurance is available. The license suspension and ignition interlock provisions under the misdemeanor DUI laws apply.

Under the Juvenile Justice Act, felony DUI is made a Category B+ offense. This means a juvenile adjudicated of felony DUI will receive a presumptive disposition range of 15 - 36 weeks in a state juvenile facility.

Votes on Final Passage:

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

Effective: July 1, 2007

HJM 4023

Requesting Congress to enact the Kidney Care Quality Improvement Act of 2005.

By Representatives Moeller, Buck, Kessler, DeBolt, Haigh, Talcott, Morrell, Newhouse, Williams, Serben and Eickmeyer.

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

Background: End stage renal disease is a failure of the kidneys to less than 10 percent of normal function. Patients experiencing end stage renal disease are not able to treat their kidney failure through diet, medications, or controlling high blood pressure. Dialysis or a kidney transplant are the only treatment options for patients with end stage renal disease.

There are two companion measures, H.R.1298 and S.635, relating to kidney disease pending before the U.S. Congress. Under these bills, titled the "Kidney Care Quality Improvement Act of 2005," the U.S. Department of Health and Human Services must:

- review covered surgical procedures and evaluate whether to cover the full range of dialysis access procedures;
- create incentives to increase the use of home dialysis;
- establish a demonstration project to improve the quality of care through financial incentives;
- increase the basic case-mix adjusted payment amounts every year; and
- establish demonstration projects to increase public awareness about prevention and treatment of chronic kidney disease and enable individuals to develop self-management skills.

In addition, patient care dialysis technicians must complete a training program in the care and treatment of patients in dialysis treatment and hold certification as a dialysis technician.

Summary: Legislative findings are made expressing: the prevalence of end stage renal disease; the characteristics of patients with the condition; the absence of educational programs to inform patients about treatment options; the lack of coordination among governments, health care providers, educators, and patient groups to identify high-risk populations to improve the treatment of chronic kidney disease; and the failure of the reimbursement system to maintain a sustainable payment level.

The United States House of Representatives and United States Senate are requested to enact H.R. 1298 and S. 635 which relate to Medicare patients with kidney disease.

Votes on Final Passage:

House	95	0
Senate	43	0

HJM 4031

Preserving section 5 of the Marine Mammal Protection Act to protect Puget Sound.

By Representatives Appleton, B. Sullivan, Green, Takko, McCoy, Hunt, Darneille, Flannigan, Kessler, Chase, Eickmeyer, Morris, McIntire, Murray, Woods, O'Brien, Ericks, Pettigrew, Moeller, Dunshee, Lantz, Schual-Berke, Lovick, Morrell, Kenney, Clibborn, Sommers, Walsh, Strow, Haler, Talcott, Jarrett, Wallace, Dickerson, Conway, P. Sullivan, Hasegawa, Upthegrove, Rodne, Hankins, Williams, Springer, Cody, McDermott, Sells, Miloscia, Kagi, Campbell, Simpson, Roberts and Kilmer.

House Committee on Natural Resources, Ecology & Parks
Senate Committee on Natural Resources, Ocean & Recreation

Background: The U.S. Congress enacted the Marine Mammal Protection Act in 1972 in response to concerns that some marine mammal species may be in danger of extinction as a result of human activities and that species should not be permitted to fall below sustainable population levels.

Section 5 of the Marine Mammal Protection Act contains findings that the navigable waters in the Puget Sound are a fragile and important national asset. It further finds that increased oil tanker traffic is a threat to those waters and shorelines, and tanker traffic restrictions are necessary to protect the Puget Sound. After October 18, 1977, Section 5 also restricted the federal government from approving permits for any facility in the Puget Sound east of Port Angeles that would result in any increase in crude oil being handled at that facility. The restriction allows for increases in oil that is refined

for consumption in Washington.

On November 8, 2005, S.1977 was introduced in the Senate of the United States that would repeal Section 5 of the Marine Mammal Protection Act.

Summary: The President of the United States, Congress, and the Secretary of the U.S. Department of Commerce are petitioned to preserve Section 5 of the Marine Mammal Protection Act to continue protecting the Puget Sound by limiting tanker traffic. The joint memorial includes the following findings:

- the Puget Sound provides significant economic and natural resource benefits;
- 40 species, including orcas and salmon, are listed on state and federal threatened, endangered, or candidate species lists;
- approximately 600 tankers per year enter Washington waters, and additional tanker traffic would significantly increase the likelihood of oil spills in the Puget Sound; and
- Senator Warren Magnuson declared that the waters of the Puget Sound ought to be protected and that there should not be an expansion of tanker traffic.

Votes on Final Passage:

House	86	12
Senate	37	8

HJM 4038

Requesting that certified diabetes educators be added as Medicare providers.

By Representatives Hinkle, Cody and Santos.

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

Background: Diabetes is a disease in which blood sugar levels are elevated due to the pancreas' inability to make or properly use insulin. The two most common types of diabetes are type 1 diabetes (previously called "juvenile diabetes") which accounts for approximately 5-10 percent of all cases of diabetes and type 2 diabetes (previously called "adult onset diabetes") which comprises approximately 90-95 percent of all diabetes cases. Type 1 diabetes is a condition in which the pancreas is no longer able to produce insulin and primarily affects younger people. Type 2 diabetes is a condition in which the body cannot use insulin properly and may occur at any age. It occurs in people who are overweight or have risk factors such as high cholesterol, high blood pressure, family history, or certain ethnic backgrounds. The Centers for Disease Control and Prevention estimate that over 20 million people in the United States have diabetes.

There are two companion measures, H.R.3612 and S.626, relating to diabetes educators pending before the U.S. Congress. Under these bills, titled the "Diabetes Self-Management Training Act of 2005," the U.S. Department of Health and Human Services may reimburse certified diabetes educators who provide diabetes outpatient self-management training services under Medicare. In addition, the Comptroller General of the United States must conduct a study to identify barriers to accessing diabetes self-management training, including economic and geographic barriers, as well as accessing qualified providers.

Summary: Legislative findings are made expressing the prevalence of diabetes, the cost of diabetes, the benefits of chronic disease self-management plans for diabetes patients, the skills of certified diabetes educators, and the impact of the closure of diabetes education programs at hospitals.

The United States House of Representatives and United States Senate are requested to enact H.R. 3612 and S. 626 which relate to Medicare patients with diabetes and diabetes educators.

Votes on Final Passage:

House	98	0
Senate	45	0

HJR 4223

Amending the state Constitution to increase the personal property tax exemption for the head of a family.

By Representatives Kilmer, Kristiansen, Linville, Bailey, Pettigrew, P. Sullivan, Dunn, Ericks, Morrell, Appleton, Green, Sells and Simpson.

House Committee on Finance
Senate Committee on Ways & Means

Background: All property in this state is subject to the property tax each year based on the property's value, unless a specific exemption is provided by law. Property taxes apply to both real property (real estate) and personal property (all other property that is not real estate). Household goods and business inventories are exempt from tax by statute. Thus, taxable personal property consists mainly of office and business equipment.

The State Constitution authorizes the Legislature to exempt personal property to the amount of $3,000 for each head of a family. This exemption was increased from $300 by a constitutional amendment approved by the voters in 1988. The Legislature has enacted this exemption in statute. Under rules of the Department of Revenue, a head of a family means an individual, not an entity such as a corporation, limited liability company, or a partnership. The following persons are eligible as a head of a family under the rules: Any person receiving an old age pension under the laws of this state; any citizen of the United States, over the age of 65, who has resided in the state of Washington continuously for 10 years; a husband or wife, when the claimant is a married

person, or a surviving spouse not remarried; and any person who resides with and provides care and maintenance for other family members as defined in the rule.

Summary: The maximum personal property tax exemption allowed under the State Constitution for a head of family is increased to $15,000.

Votes on Final Passage:

House	96	0
Senate	46	0

SSB 5042
C 132 L 06

Tolling the statute of limitations for felony sex offenses.

By Senate Committee on Judiciary (originally sponsored by Senator McCaslin).

Senate Committee on Judiciary
House Committee on Criminal Justice & Corrections

Background: The criminal statute of limitations limits the time period during which a suspect may be charged with a crime. The time period begins at the time the crime is committed. For murder, homicide by abuse, arson that causes a death, vehicular homicide, vehicular assault if a death results, and hit-and-run when a death results, there is no time limitation and the person may be prosecuted whenever he or she is apprehended. There are various periods of limitation for other felonies. Gross misdemeanors may be prosecuted no more than three years after they are committed and for misdemeanors the time limitation is one year.

Summary: For all felony sex offense cases, the time period for the statute of limitations begins to run on the date the crime was committed or one year from the date on which the identity of the suspect is conclusively established by DNA testing, whichever is later.

Votes on Final Passage:

Senate	47	0
House	97	0

Effective: June 7, 2006

ESB 5048
C 14 L 06

Prohibiting tobacco product sampling.

By Senators Oke, Brown, Keiser, Swecker, Kline, Morton, Rockefeller, Deccio, Thibaudeau, Finkbeiner, McAuliffe, Sheldon, Rasmussen, Spanel, Berkey, Eide, Doumit, Regala, Kohl-Welles, Jacobsen, Franklin, Haugen, Fraser, Kastama and Weinstein.

Senate Committee on Labor, Commerce, Research & Development
House Committee on Health Care

Background: Cigarette manufacturers distribute free samples as a marketing technique. The Washington State Liquor Control Board regulates the business of sampling tobacco products. Upon payment of an annual fee, a person engaged in the business of sampling may distribute samples in authorized areas. Current law prohibits the distribution of free samples to minors.

Summary: Distributing tobacco product samples to members of the public is prohibited. Any violation of this prohibition is a misdemeanor. Various provisions of the laws regulating sampling are deleted or repealed. The section of the bill relating to identification to purchase alcohol is amended to incorporate changes made to the section in SHB 1492 which passed during the 2005 session.

Votes on Final Passage:

Senate	39	6
House	73	25

Effective: June 7, 2006

ESB 5179
C 342 L 06

Studying forest health issues.

By Senators Morton, Jacobsen, Sheldon and Stevens.

Senate Committee on Natural Resources, Ocean & Recreation
House Committee on Natural Resources, Ecology & Parks
House Committee on Appropriations

Background: The 2004 Legislature created a work group to study forest health issues and to report back to the Legislature in December 2004. The work group, which was staffed by the Department of Natural Resources, prepared its report and drafted proposed legislation. Due to the short time frame, statewide public hearings have not been held on the proposed legislation. The work group expired on June 30, 2005.

Summary: The forest health work group is recreated and is authorized to conduct at least five hearings statewide to gather and report on public input. The work group expires June 30, 2007.

Votes on Final Passage:

Senate	47	0	
House	98	0	(House amended)
Senate	46	0	(Senate concurred)

Effective: June 7, 2006

ESSB 5204
C 283 L 06

Modifying the chattel lien process.

By Senate Committee on Judiciary (originally sponsored by Senators Brandland, Kastama, Sheldon, Rasmussen, Spanel, Hargrove and Shin).

Senate Committee on Judiciary
House Committee on Judiciary

Background: The process for filing a lien on personal property generally follows the procedure for liens filed by mechanics and materialmen. A lien is created when labor is performed or material is provided in the construction, or repair, of the chattel at the request of the chattel owner and the owner fails to pay for the labor or materials. The notice of lien is filed with the county auditor in the county in which the chattel is kept. Chattel liens follow a prescribed priority to other liens, mortgages, or other encumbrances. Chattel liens can be enforced by a foreclosure procedure with specific requirements. There is a provision in the foreclosure law which allows the lien debtor to recover loss from the lien holder if the specific requirements of the foreclosure procedure are not followed.

Summary: When a lien has been placed on personal property, and the personal property owner feels the claim is frivolous, made without reasonable cause, or is excessive, the personal property owner may file an action in superior court requiring the lien claimant to appear before the court and answer the applicant's allegation. The court must determine if the lien is frivolous, reasonable, or excessive, and must remedy the claim accordingly by leaving the lien as it is, releasing the lien, or reducing it.

The personal property owner must provide notice of the action filed in superior court, to the lien claimant, by first class mail, registered or certified mail, or personal service.

Additionally, the Department of Licensing is prohibited from transferring title to a vehicle through the chattel lien process until it has documented that the lien has been filed with the county auditor, and that the lien claimant has notified the personal property owner of the lien.

During a foreclosure proceeding, the lien claimant must notify the lien debtor, by certified mail, of the time and place of any public sale or of the time after which any private sale or other intended disposition of the property is to be made. Also during the foreclosure proceeding, and before accepting an offer for purchase, the lien holder must notify the prospective purchaser of the existence of any prior lien or security interest, and the identity of the holder of that interest, if the lien holder knows that information, and if not known, must inform the prospective purchaser of that.

The purchaser of chattel through the foreclosure proceeding takes the chattel subject to any security interest or lien that is superior to the lien subject of the foreclosure proceeding. The Department of Licensing title at transfer must reflect any prior security interest. If the title does not reflect that information, the holder of such prior security interest can direct the Department to issue a new title reflecting the prior security interest and showing the purchaser as the registered owner. The Department must notify the purchaser of the issuance of any replacement title.

Votes on Final Passage:

Senate	46	0
House	97	0

Effective: October 1, 2006

ESB 5232
C 15 L 06

Requiring a turkey tag to hunt for turkey.

By Senators Oke, Swecker and Jacobsen.

Senate Committee on Natural Resources, Ocean & Recreation
Senate Committee on Ways & Means
House Committee on Natural Resources, Ecology & Parks
House Committee on Finance
House Committee on Appropriations

Background: A small game hunting license is required to hunt for classified wild animals and wild birds and unclassified wildlife, but does not authorize the hunting of big game. Included in the purchase of a small game license is one turkey transport tag.

Small game license fees are set at $30 for residents, $150 for nonresidents, and $15 for youth. When purchased in conjunction with a big game combination license package, small game licenses are $16 for residents, $80 for nonresidents, and $8 for youth. Revenues from the sale of such licenses are deposited in the state wildlife fund.

The fee for additional turkey tags is $18 for residents, $60 for nonresidents, and $9 for youth.

Summary: Hunters must purchase a turkey tag, in addition to a small game license, in order to hunt for turkey. The fee for a primary turkey tag is $14 for residents and $40 for nonresidents. On request, the purchaser of a youth small game license will receive a primary turkey tag at no charge. The fee for each additional resident turkey tag is decreased from $18 to $14.

All revenues from turkey tags must be deposited in the state wildlife fund, with one-third of these revenues to be appropriated solely for turkey management and one-third to be appropriated solely for upland game bird management.

Votes on Final Passage:

Senate	41	6	
House	92	6	(House amended)
Senate	40	6	(Senate concurred)

Effective: June 7, 2006

SSB 5236
C 230 L 06

Providing additional funding to the prevailing wage program of the department of labor and industries by discontinuing the transfer of moneys from the public works administration account to the general fund-state account.

By Senate Committee on Ways & Means (originally sponsored by Senators Kohl-Welles, Parlette, Keiser, Fraser, Honeyford and Kline; by request of Department of Labor & Industries).

Senate Committee on Labor, Commerce, Research & Development
Senate Committee on Ways & Means
House Committee on Commerce & Labor
House Committee on Appropriations

Background: Employers on public works projects must pay the prevailing wage, which is the hourly wage paid to the majority of workers, laborers, or mechanics in the same occupation in that locality. Employers starting public works projects must file intent forms stating they will pay employees the prevailing wage. When the project ends, employers must also file affidavits stating prevailing wages were paid.

The Department of Labor and Industries (L&I) is responsible for establishing prevailing wage rates. L&I conducts surveys and uses the data received from the surveys to calculate the rates. L&I is also responsible for enforcing the prevailing wage statues, which includes investigations. Filing fees may be levied on the intent and affidavit forms; by statute L&I cannot raise fees above $25. These fees are deposited into the Public Works Administration account, along with fines imposed on violators of the prevailing wage statutes. By statute, 30 percent of the revenues in the account is transferred to the state general fund.

Summary: The statute requiring the transfer of 30 percent of the Public Works Administration account revenues to the state general fund is eliminated.

Votes on Final Passage:

Senate	47	1
House	96	1

Effective: July 1, 2007

ESSB 5305
C 231 L 06

Prohibiting vaccinating pregnant women and children with mercury-containing vaccines.

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Rasmussen, Benton, Roach, Swecker, Zarelli, Regala, Stevens, Shin, Delvin, Franklin and Mulliken).

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

Background: There is concern that the mercury-containing stabilizing agents in certain vaccinations typically administered during childhood may cause autism.

Thimerosal, a preservative that has been used in some vaccines since the 1930's to prevent contamination, contains approximately 40 percent ethylmercury. Until 1999, vaccines given to infants to protect them against diptheria, tetanus, pertussis (also known as whooping cough), Haemophilus influenzae type b (bacterial meningitis), and Hepatitis B contained thimerosal as a preservative. Today, with the exception of some flu vaccines, none of the vaccines used in the United States to protect preschool aged children against 12 infectious diseases contains thimerosal as a preservative.

Summary: Beginning July 1, 2007, children under 3 and pregnant women will not be vaccinated with a vaccine that contains more than 0.5 micrograms of mercury per 0.5 milliliter dose. The Secretary of Health may suspend this requirement upon the declaration of a public health emergency. All vaccines must meet Food and Drug Administration vaccine licensing requirements.

Votes on Final Passage:

Senate	44	0	
House	97	0	(House amended)
Senate			(Senate refused to concur)
House	98	0	(House amended)
Senate	47	0	(Senate concurred)

Effective: June 7, 2006

ESB 5330
C 314 L 06

Regarding an inventory of economic development grant opportunities.

By Senators Shin, Rasmussen, Berkey, McAuliffe and Kohl-Welles.

Senate Committee on International Trade & Economic Development
Senate Committee on Ways & Means
House Committee on Economic Development, Agriculture & Trade
House Committee on Appropriations

Background: There are numerous federal and private economic development assistance programs for which state agencies and local governments and organizations are eligible to apply. There are also numerous opportunities to attract major regional, national, and international business, tourism, and sporting events to the state. Some local and state agencies have had success in garnering non-state support for attracting major events and for economic development projects, but there is no systematic effort to maximize federal and private funds for such events and projects.

Summary: The Department of Community, Trade, and Economic Development is to create an inventory of grant opportunities for state agencies, local governments, and other community organizations engaged in economic development activities. The department may facilitate efforts to attract grants and major events.

Votes on Final Passage:

Senate	37	0	
House	86	11	(House amended)
Senate			(Senate refused to concur)
House			(House insisted on position)
Senate	44	2	(Senate concurred)

Effective: June 7, 2006

ESSB 5385
C 152 L 06

Creating the Washington invasive species council.

By Senate Committee on Natural Resources, Ocean & Recreation (originally sponsored by Senators Jacobsen, Oke, Fraser, Swecker and Kline).

Senate Committee on Natural Resources, Ocean & Recreation
Senate Committee on Ways & Means
House Committee on Natural Resources, Ecology & Parks
House Committee on Appropriations

Background: Invasive species are defined by state statute as a "plant species or a nonnative animal species that either: (1) Causes or may cause displacement of, or otherwise threatens, native species in their natural communities; (2) Threatens or may threaten natural resources or their use in the state; (3) Causes or may cause economic damage to commercial or recreational activities that are dependent upon state waters; or (4) Threatens or harms human health."

Invasive species pose a serious threat to Washington State. This threat has increased with improvements in travel technology and increased travel in recent years. Once nonnative species become established in a new environment, the conditions that kept their population in check in their native environment may be missing.

Spartina, a cordgrass which has infested at least ten counties and limits the food available to shorebirds and fish, is an example of an invasive species that has impacted the state. Additional examples include purple loosestrife, milfoil, scot's broom, knapweeds, and cheat grass.

Summary: The Washington Invasive Species Council is created in the Interagency for Outdoor Recreation (IAC) to provide policy direction, planning, and coordination for combating and preventing harmful invasive species in the state. The Council is scheduled to exist until December 31, 2011. The membership of the Council includes representatives from six state entities and two counties. Representatives from four federal agencies must be invited to participate in a nonvoting capacity. The Council may expand its membership and may establish advisory and technical committees.

The Council must develop and periodically update a statewide strategic plan for addressing invasive species issues, including agency coordination and the prevention, detection, and response to invasive species. The Council must also report its activities annually to the Governor and the Legislature.

A non-appropriated account is created, expenditures from which must be used to carry out the purposes of the Council.

Invasive species, for purposes of this bill, are defined as "nonnative organisms that cause economic or environmental harm and are capable of spreading to new areas of the state." This term does not include domestic livestock, intentionally planted agronomic crops, or nonharmful exotic organisms.

Votes on Final Passage:

Senate	34	8	
House	90	7	(House amended)
Senate	37	5	(Senate concurred)

Effective: June 7, 2006

SB 5439
C 45 L 06

Authorizing background checks on gubernatorial appointees.

By Senators Roach, Swecker, Delvin, Sheldon, Parlette, Kohl-Welles and McCaslin; by request of Washington State Patrol.

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

Background: Procedures for confirmation of gubernatorial appointments require the Governor to transmit pertinent information about a prospective appointee to the Secretary of the Senate.

In respect to information that could be pertinent

regarding criminal activity, only information relating to criminal conviction in Washington State is currently available to the Governor for background checks on prospective gubernatorial appointees. Additional information that is potentially available includes the entire scope of "criminal history record information," which encompasses both information relating to formal criminal charges and their disposition and information relating to incidents that did not result in conviction or other adverse disposition. This information is available only to criminal justice agencies.

Summary: When requested by the Governor or the Director of the Department of Personnel regarding gubernatorial appointments of agency heads, the Washington State Patrol must check nonconviction criminal history fingerprint records itself and through the Federal Bureau of Investigation. Agency heads are those individuals or bodies who are vested by law with the ultimate legal authority of an agency.

An appointment may be conditional, pending completion of the check. The Governor and the Department of Personnel must maintain the confidentiality of the information obtained.

Votes on Final Passage:

Senate	43	2
House	97	0

Effective: June 7, 2006

ESSB 5535
C 232 L 06

Concerning the practice of optometry.

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Franklin, Brandland, Berkey, Spanel, Schoesler, Rockefeller, Delvin, Kohl-Welles, Oke and Shin).

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

Background: The practice of optometry involves the examination of the human eye and the human vision system. Optometrists may test patients' visual acuity, prescribe eyeglasses and contact lenses, prescribe visual therapy, and adapt prosthetic eyes.

Upon meeting additional requirements, optometrists may also use or prescribe topically applied drugs for diagnostic or therapeutic purposes. They may apply topical drugs for diagnostic purposes upon completing 60 hours of didactic and clinical instruction in general and ocular pharmacology and receiving certification from an accredited institute of higher learning. Optometrists may prescribe topical drugs for therapeutic purposes upon completing the requirements for diagnostic drugs plus an additional 75 hours of instruction and receiving certification.

To use or prescribe an oral drug for a diagnostic or therapeutic purpose, an optometrist must meet the existing requirements for topically applied drugs, complete an additional 16 hours of didactic and eight hours of supervised clinical instruction, and receive certification from an accredited institute of higher education.

To use injectable epinephrine, an optometrist must meet the existing requirements for topically applied drugs, complete an additional four hours of didactic and supervised clinical instruction, and receive certification from an accredited institute of higher education.

Summary: This bill sets a required timeline for optometrists to reach a uniform level of licensure.

By January 1, 2007, all optometrists receiving an initial license in Washington must meet the standard requirements of the Board of Optometry and meet the requirements for using topically applied drugs for diagnostic and therapeutic purposes, the requirements to use or prescribe an oral drug, and the requirements for use of injectable epinephrine.

By January 1, 2009, all persons licensed to practice optometry must meet the standard requirements of the Board of Optometry and also the requirements for using topically applied drugs for diagnostic and therapeutic purposes.

By January 1, 2011, all persons licensed to practice optometry must be certified under the standard requirements of the Board of Optometry, and must meet the requirements for using topically applied drugs for diagnostic and therapeutic purposes, the requirements to use or prescribe an oral drug, and the requirements for use of injectable epinephrine.

The Board of Optometry is authorized to adopt rules to allow a licensed optometrist to place his or her license on inactive status. An inactive license may be placed on active status by complying with rules established by the optometry board. Disciplinary action taken against a person with an inactive license is comparable to that taken against a person with an active license except the inactive license will remain so, until disciplinary proceedings have been completed.

Votes on Final Passage:

Senate	40	0	
House	97	0	(House amended)
Senate	45	0	(Senate concurred)

Effective: June 7, 2006

SSB 5654
C 355 L 06

Protecting the privacy of personal information of criminal justice officials.

By Senate Committee on Judiciary (originally sponsored by Senators Prentice, Esser, Oke and Kohl-Welles).

Senate Committee on Judiciary
House Committee on Judiciary

Background: Current statutes provide that, a person or organization that, with intent to harm or intimidate, sells, trades, gives, publishes, distributes, or otherwise releases the residential address, residential telephone number, birthdate, or social security number of any law enforcement related, corrections officer related, or court related employee or volunteer without express written commission, may be subject to a civil action for actual damages plus attorneys' fees and costs. These statutes were found overbroad and void for vagueness, in *Sheehan v. Gregoire*, because: (1) they punished communication of truthful lawfully-obtained, publicly available information, not true threats; and (2) it was unclear what speech the state had the power to proscribe.

Summary: The current statutory provisions are completely replaced. No person may knowingly make available on the internet the personal information of a peace officer, corrections person, justice, judge, commissioner, public defender, or prosecutor if the dissemination poses an imminent and serious threat to the public officers or their immediate families. It must be reasonably apparent to the person making the information available that the threat is serious and imminent. It is not a violation if a person working in the county auditor's or county assessor's office publishes this information in good faith and in the ordinary course of business. Personal information includes: home addresses, home telephone numbers, pager numbers, social security numbers, home email addresses, directions to the person's home, and photographs of the person's home or vehicle.

Any person who suffers damages as a result of the restricted internet publications may bring a civil action for actual damages, reasonable attorney's fees and costs, and additional damages of up to $1,000 for each day the personal information was available on the internet.

Votes on Final Passage:

Senate	48	0	
House	97	0	(House amended)
Senate	46	0	(Senate concurred)

Effective: June 7, 2006

2ESB 5714
C 55 L 06

Establishing an early detection breast and cervical cancer screening program.

By Senators Keiser, Deccio, Kastama, Parlette, Thibaudeau, McAuliffe, Brown, Rasmussen, Rockefeller and Kohl-Welles.

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

Background: The Department of Health, through a Centers for Disease Control and Prevention grant, administers a breast and cervical cancer early detection program for low-income women. Federal funding from fiscal year 2000 to fiscal year 2004 was $15 million, and the state is required to contribute one dollar for every three dollars of federal funding. The Legislature has appropriated an annual $1 million for breast and cervical cancer screening, coordination, and outreach services.

Breast cancer is the second most commonly diagnosed cancer among American women. Washington State has the highest incidence of breast cancer in the nation. According to the Department of Health, early detection screening could prevent approximately 15 to 30 percent of breast cancer deaths among women over the age of 40.

Cervical cancer has a low incidence in the United States. Regular Pap tests can detect pre-cancers. The Department of Health believes that early detection screening can prevent the majority of cervical cancer deaths.

Summary: The Department of Health is authorized to administer a state-supported early detection breast and cervical cancer screening program to assist eligible women with preventative health services. Eligible women are defined as women aged 40-64, with income at or below 250 percent of the federal poverty level.

The Department of Health is authorized to administer the screening program to the extent funds are available. The Department is authorized to freeze enrollment in the screening program if expenditures exceed the appropriated funding unless there are adequate funds from alternative public or private sources.

The funding from the state must not be used to replace federally funded breast and cervical cancer early detection programs, but will be used to operate Department of Health approved programs or to increase access to existing state-approved programs.

A medical advisory committee is established to provide expert medical advice and guidance in the implementation of the program.

Votes on Final Passage:

Senate	47	0	
House	97	0	(House amended)
Senate	45	0	(Senate concurred)

Effective: June 7, 2006

2SSB 5717
C 118 L 06

Requiring a study on the availability and use of skill centers.

By Senate Committee on Early Learning, K-12 & Higher Education (originally sponsored by Senators Rockefeller, Benton, Fairley, Oke, Keiser, Zarelli, Shin, Rasmussen and Kohl-Welles).

Senate Committee on Early Learning, K-12 & Higher Education
House Committee on Education
House Committee on Appropriations

Background: About 7,000 students from 85 school districts attend one of the 10 skill centers operating in the state. Many of the students attend part-time. Skill centers operate under cooperative agreements among participating school districts and primarily provide students with instruction in career and technical education. The superintendents of the participating cooperative school districts serve on an administrative council that governs the skill center. Skill centers receive state funding based on the number of full-time equivalent (FTE) students at an enhanced funding rate.

Summary: The Workforce Training and Education Coordinating Board (WTECB), in collaboration with the Office of the Superintendent of Public Instruction, is directed to study and recommend to the 2007 Legislature how to increase opportunities for students living in areas of the state that are not adequately served by a skills center. If plausible, WTECB must provide preliminary recommendations to Washington Learns by June 2006.

The study must focus on these primary issues:

1) report on the current skill center geographic coverage and identification gaps in the service area;
2) recommendations on how best to increase program access to students in rural and remote areas and address the difficulties in providing adequate services in high density areas;
3) recommendations on how best to integrate core academic content into skill center programs and how to determine and report skill center course equivalencies for the purpose of meeting high school graduation requirements; and
4) recommendations on the role that skills centers can play as a dropout prevention/retrieval program.

In making the recommendations, WTECB must explore the feasibility of creating satellite sites, creating joint programs between high schools and community colleges, using the K-20 network, and offering additional evening and summer programs. The report must also provide an analysis of any additional funding needs or different funding methods necessary to implement the recommendations.

Votes on Final Passage:

Senate	44	0
House	97	0

Effective: June 7, 2006

SSB 5838
C 233 L 06

Limiting the substitution of preferred drugs in hepatitis C treatment.

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Kastama, Benson, Poulsen, Brandland, Deccio, Keiser, Thibaudeau, Franklin and Rasmussen).

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

Background: In 2003, the Legislature passed SB 6088 establishing an evidence-based prescription drug program for state agencies. The program includes a preferred drug list (PDL), which is a list of prescription drug classes that have gone through an evidence-based review process to determine the best choice of drugs within the class; and a therapeutic interchange program, through which a provider may endorse the PDL, thus requiring a pharmacists to exchange the preferred drug for any nonpreferred drug that the provider prescribes. The requirement to exchange the preferred for nonpreferred drug, however, does not apply to prescriptions for a refill of an antipsychotic, antidepressant, chemotherapy, antiretroviral, or immunosuppresive drug.

Summary: Under the state's prescription drug program, the requirement that a pharmacist exchange a preferred drug for any nonpreferred drug does not apply to a refill of a immunomodulator/antiviral treatment for hepatitis C for which an established, fixed duration of therapy is prescribed for at least twenty-four weeks but no more than forty-eight weeks.

Votes on Final Passage:

Senate	34	4
House	97	0

Effective: June 7, 2006

SB 6059
C 356 L 06

Authorizing state agencies to create sick leave pools for employees.

By Senators Berkey, Haugen, McAuliffe, Franklin, Rockefeller, Schoesler, Eide, Weinstein, Rasmussen, Shin, Delvin, Mulliken, Oke, Parlette and Kohl-Welles.

Senate Committee on Labor, Commerce, Research & Development
House Committee on State Government Operations & Accountability

Background: Sick leave pools permit employees to contribute already accrued sick leave, and in return are able to use time from this pool if the employee meets the proper criteria.

Summary: State agencies and departments may participate in a sick leave pool for state employees. The Department of Personnel is to establish rules creating the sick leave pool. Eligibility to participate in the sick leave pool is contingent on an employee first using all sick, annual, and compensatory leave accrued to the employee. Part-time employees may participate in sick leave pools on a pro-rata basis.

Personnel authorities of higher education institutions must adopt their own policies, consistent with the needs of the employees under their respective jurisdictions, to govern sick leave pools.

Votes on Final Passage:

Senate	47	0	
House	95	2	(House amended)
Senate	48	0	(Senate concurred)

Effective: July 1, 2007

ESSB 6106
C 235 L 06

Requiring disclosure of specified health care information for law enforcement purposes.

By Senate Committee on Health & Long-Term Care (originally sponsored by Senator Brandland).

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

Background: The Health Insurance Portability and Accountability Act (HIPAA) established federal standards for disclosure of protected health care information by health care providers, including hospitals. Both state law and HIPAA govern disclosure of health care information.

Engrossed Substitute Senate Bill 5158 enacted in 2005 addressed a variety of state health care information disclosure issues, including patient authorization for release of health care information, and clarifying information that allows a health care provider to disclose information to a law enforcement official that the provider in good faith believes constitutes evidence of criminal conduct that occurred on the premises. This same law enables a provider to disclose basic identifying information about a patient brought in by a public authority (fire, police, sheriff). However, current law does not provide for the mandatory release of health care information to law enforcement.

Although dental files can be made available to law enforcement agencies attempting to locate missing persons, there is currently no standard set for the quality of copies of dental records to be provided, nor is there a provision made for circumstances where next of kin cannot be located or refuse to consent to the release of the missing person's dental records.

Summary: A health care provider is required to disclose health care information about a patient without the patient's consent upon request of local, state, or federal law enforcement authorities for any patient who has been, or is being, treated for any injury arising from: (1) the discharge of a firearm; (2) a sharp or pointed instrument which law enforcement authorities reasonably believe to have been intentionally inflicted; or (3) a blunt force injury which law enforcement authorities reasonably believe resulted from a criminal act. Law enforcement authorities can make the request for the information orally or in writing to a nursing supervisor, administrator, or designated privacy official.

An individual responding to such a request must provide the following information about the patient, if known: name, address, gender, age, condition, diagnosis, status of consciousness upon admission, provider name, whether or not the patient has been transferred to another facility, and the patient's discharge time and date.

A definition is provided for "federal, state, or local law enforcement authorities." It includes those authorities who are empowered by law to investigate or prosecute alleged or potential criminal violations of law.

In the case of a person reported missing and not found within 30 days of the report, diagnostic quality copies of the missing person's dental records must be provided by the missing person's dentist if presented with written consent from the person's family. In the event family cannot be located, law enforcement authorities may submit a statement that the next of kin could not be located, or that the next of kin have refused to consent, and law enforcement authorities have reason to believe they may have been involved in the missing person's disappearance.

Votes on Final Passage:

Senate	43	0	
House	97	0	(House amended)
Senate	43	0	(Senate concurred)

Effective: March 27, 2006

SSB 6141
C 184 L 06

Including the value of wind turbine facilities in the property tax levy limit calculation.

By Senate Committee on Water, Energy & Environment (originally sponsored by Senator Honeyford).

Senate Committee on Water, Energy & Environment
Senate Committee on Ways & Means
House Committee on Technology, Energy & Communications
House Committee on Finance

Background: Taxing districts may increase their regular property tax levy by 1 percent per year, plus an additional amount based on the increase in the assessed value in the district resulting from new construction, improvements to real property, and state-assessed property.

Electric generation wind turbine facilities are personal property unless the same person owns both the wind turbine facilities and the land upon which they are located.

Wind turbine facilities owned by utilities that operate in more than one county are state assessed. Property taxes resulting from new state-assessed wind turbine facilities increase revenues to taxing districts because taxes resulting from increases in the value of state-assessed property are added to the amount that may be levied under the levy limit.

Wind turbine facilities owned by utilities that operate entirely within a single county are assessed by the county assessor. Property taxes resulting from new county-assessed wind turbine facilities do not increase revenues to taxing districts because they are not considered "new construction" or an "improvement to property."

Summary: Property taxes resulting from new county-assessed electric generation wind turbine facilities are added to the amount that may be levied under the levy limit.

Votes on Final Passage:

Senate	46	0
House	96	0

Effective: June 7, 2006

SSB 6144
C 127 L 06

Changing registration requirements for sex offenders coming from outside the state who establish or reestablish Washington residency.

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Stevens, Benton, Carrell, Regala, Benson and Pflug).

Senate Committee on Human Services & Corrections
House Committee on Criminal Justice & Corrections

Background: In 1990, the Legislature enacted the Community Protection Act, which created one of the first sex offender registration laws in the country. A person convicted of a sex or kidnapping offense must register with the county sheriff of the county in which he or she lives. The person subject to the registration requirements must provide such information as his or her name, address, date and place of birth, place of employment, crime of conviction, date and place of conviction, aliases, Social Security number, photograph, and fingerprints. He or she must also notify the county sheriff if he or she is enrolled in public or private school or in an institution of higher education.

Summary: Compliance with the registration statute is required, regardless of when the offenses triggering registration were committed. A person who is convicted of a sex offense and who enters the state to establish residence in the state must comply with the registration statute within three business days of establishing residence in Washington.

Votes on Final Passage:

Senate	47	1	
House	98	0	(House amended)
Senate			(Senate refused to concur)
House	98	0	(House receded)

Effective: September 1, 2006

ESSB 6151
C 168 L 06

Protecting aquifer levels.

By Senate Committee on Water, Energy & Environment (originally sponsored by Senators Schoesler, Poulsen, Mulliken, Rasmussen, Jacobsen, Morton and Delvin).

Senate Committee on Water, Energy & Environment
House Committee on Economic Development, Agriculture & Trade

Background: Ground Water Management Subareas may be established by Department of Ecology rule to address declining aquifer levels and regulate withdrawals of public ground water. The department has adopted rules establishing the Odessa Groundwater Management Subarea (subarea). Part of the subarea includes lands within the boundaries of the federal Columbia Basin Project (project). Deep well irrigation occurs in some subarea lands that never received federal project water as once anticipated even though they lie within project boundaries.

A water right may be forfeited for non-use. The forfeiture may be found under common law principles of abandonment or may result from the application of state statutes on relinquishment. The relinquishment laws pro-

vide exemptions from their forfeiture requirements. Exempted from relinquishment is the non-use of standby or reserve waters that are to be used in time of drought or other low flow periods as long as the withdrawal or diversion facilities for the right are maintained in good operating condition.

In 2004, the Legislature granted the department the authority to enter into agreements with the United States and the project irrigation districts to offset aquifer depletions due to ground water withdrawals. Such agreements allow surface water conserved within currently served project areas to be delivered to deep well irrigated lands in ground water management subareas within project boundaries. Where such deliveries occur, the department must issue a superseding water right permit or certificate to indicate that the unused portion of a replaced subarea ground water right is a reserve right with low flow protection from relinquishment. This reserve right may again be used if the delivery of conserved project water is curtailed or otherwise unavailable. The total acreage irrigated under the subarea ground water right and delivered project water must not exceed quantity or acreage limits described in the ground water permit of certificate.

The continued decrease in the level of the aquifer in the Odessa subarea requires additional solutions and approaches to help conserve water in the subarea.

Summary: The non-use of water in the Odessa subarea is explicitly protected for a period of 15 years from the relinquishment laws due to the conditions of drought or low flow as set forth under existing law. If certain conditions are met and the withdrawal facilities are maintained in good operating condition and no superseding standby or reserve water right permit has been issued from the Columbia basin project, the unused water is considered standby or reserve water supply. Conditions that excuse non-use include:

- conservation practice;
- change in types or rotations of crops;
- economic hardship;
- pumping or system infrastructure cost;
- unavailability or unsuitability of water; or
- participation in cooperative efforts to reduce aquifer depletion.

Water users choosing not to use water must notify the department in writing within 180 days of stopping the water use. Notice must also be provided upon the recommencement of use.

The water protected from relinquishment cannot be transferred outside of the Odessa subarea boundaries and transfers within the boundaries remain subject to the standard water transfer provisions of the law.

The department must submit a report to the Legislature describing the status of the aquifer, the participation in the non-use program, and the outcome of the United States Bureau of Reclamation's study on feasible alternatives to Odessa groundwater use within six months after the bureau completes its study. The report must also include recommendations for viable solutions and ways for the state to move forward with such solutions.

There is an expiration date to the law of July 1, 2021.

Votes on Final Passage:

Senate	46	0	
House	96	2	(House amended)
Senate	48	0	(Senate concurred)

Effective: March 22, 2006

ESB 6152
C 315 L 06

Regarding penalties for violations of the public disclosure act.

By Senators Kastama and Kline; by request of Public Disclosure Commission.

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

Background: The Public Disclosure Commission (PDC), together with the courts, enforces the laws on campaign finance, lobbyist reporting, public officials' financial affairs reporting, public treasurers' reporting, political advertising, and campaign contribution limitations. Violations of these laws can result in the assessment of various fines imposed by the courts or the PDC.

The PDC's authority to assess an individual penalty is limited to $1,000 and may not exceed a maximum aggregate penalty of $2,500, regardless of the number of individual violations alleged in a single complaint or hearing.

Summary: The PDC's authority to assess penalties is raised to $1,700 for a single violation and $4,200 in the aggregate for multiple violations contained in a single complaint or hearing.

Votes on Final Passage:

Senate	45	3
House	97	1

Effective: June 7, 2006

SB 6159
C 57 L 06

Concerning recreational fishing for albacore tuna.

By Senators Jacobsen, Oke and Spanel.

Senate Committee on Natural Resources, Ocean & Recreation
House Committee on Natural Resources, Ecology & Parks

Background: Fishing for albacore is increasing in popularity. In 2000, 8,000 albacore were caught and by 2005, the number increased to 12,000. Under federal law, albacore is a migratory fish species and is regulated by the Pacific Fishery Management Council. The management plan may soon require a licence to fish recreationally, and both California and Oregon require a license.

Summary: A recreational fishing license will be required to fish for albacore.

Votes on Final Passage:

Senate	39	10
House	96	2

Effective: June 7, 2006

SSB 6161
C 16 L 06

Concerning group fishing permits.

By Senate Committee on Natural Resources, Ocean & Recreation (originally sponsored by Senator Oke).

Senate Committee on Natural Resources, Ocean & Recreation

House Committee on Natural Resources, Ecology & Parks

Background: According to the Department of Fish and Wildlife (DFW), the agency has sponsored and conducted more than 70 on-the-water fishing events involving young people, almost all of whom are age 14 and younger, since 2002.

For those age 14 and under, no license is needed to fish in Washington. Those age 15 are required to have a youth fishing license in order to fish, which allows both freshwater and saltwater fishing. Those young people age 16 and older must have an annual combination license, an annual freshwater or saltwater license, or a short-term combination license in order to fish.

Current law recognizes group fishing permits which allow a group of individuals to fish and harvest shellfish without individual licenses or the payment of individual license fees. The Director of DFW must issue a group fishing permit on a seasonal basis to state-operated facilities or state-licensed nonprofit facilities or programs for certain disabled persons, ill persons, or senior citizens in the care of such a facility.

The Fish and Wildlife Commission must adopt rules that provide the conditions under which a group fishing permit must be issued.

Summary: In addition to current authority, the Director of DFW may set conditions and issue a group fishing permit to groups working in partnership with and participating in DFW outdoor education programs. At the discretion of the Director, a processing fee may be applied.

The adoption of rules that set conditions under which group fishing permits are issued by DFW is made discretionary.

Votes on Final Passage:

Senate	49	0
House	97	0

Effective: June 7, 2006

SSB 6168
C 87 L 06

Regulating business development companies and the participation of financial institutions and nondepository lenders in economic development within the state.

By Senate Committee on Financial Institutions, Housing & Consumer Protection (originally sponsored by Senators Fairley, Benton, Keiser, Benson, Prentice, Franklin, Brandland, Berkey and Schmidt; by request of Department of Financial Institutions).

Senate Committee on Financial Institutions, Housing & Consumer Protection

House Committee on Financial Institutions & Insurance

Background: Washington State has a little-used 1963 law creating "industrial development corporations," meant to enhance economic development. It is believed that creation of a modernized form of "business development company" would provide incentives for financial institutions, other lenders and investors to participate in small business development and job creation, benefitting the citizens of Washington.

Summary: "Business Development Corporations" are established in statute, to promote economic development in Washington State. Minimum requirements for incorporation are set forth, along with specific, expanded corporate powers, and corporate governance standards.

The Department of Financial Institutions (DFI) has broad regulatory oversight and rulemaking authority. DFI performs confidential examinations to ensure safety and soundness, and sets standards for capital, surplus, and investment caps.

Technical details regarding transparency and ratification of insider transactions, treatment of insolvency and liquidation, mergers, and conversion to limited liability corporations are set forth, in an effort to maintain regulatory parity with the treatment of state chartered commercial banks.

Votes on Final Passage:

Senate	47	0
House	97	0

Effective: June 7, 2006

ESB 6169
C 58 L 06

Authorizing removal of discriminatory provisions in the governing documents of homeowners' associations.

By Senators Kohl-Welles, Fairley, Prentice, Schmidt, Keiser, Benson, Kline, Franklin, Pridemore, Poulsen and Esser.

Senate Committee on Financial Institutions, Housing & Consumer Protection
House Committee on Judiciary

Background: The Homeowners' Association Act does not address amending the governing documents of a homeowners' association for the purpose of removing unlawful restrictive covenants. Currently, the process for amending covenants is generally controlled by the governing documents of a homeowner's association, which may often require a unanimous vote of all members.

In 1988, the Federal Fair Housing Amendments Act was passed, prohibiting discriminatory housing covenants, conditions, or restrictions. In addition, under Washington State statutes, it is an unfair practice for real property contract provisions to contain statutorily discriminating language. State law provides that the following are protected against discrimination in housing: individuals of a specified race, creed, color, sex, national origin; families with children status; individuals with any sensory, mental, or physical disability; or the use of a trained dog guide or service animal by a person with a physical disability or by a person who is blind or deaf.

There is an existing judicial process for striking discriminating language from the governing documents of a homeowners' association. Under this process, an owner, occupant, or tenant may bring an action in superior court to have any language that is void as statutorily discriminatory stricken from the public record and eliminated from the property title or lease.

In spite of the existence of a judicial remedy, discriminatory covenants, conditions, and restrictions continue to be present in the governing documents of some homeowners' associations. It is believed that the continued existence of such restrictive covenants is against public policy and that, therefore, a simplified process for amending the governing documents is necessary.

Summary: A homeowners' association may amend its governing documents for the purpose of removing a statutorily discriminating covenant, condition, or restriction by a simple majority vote of its board. Any board officer may move for the board to vote on amendments for this purpose. A vote or approval by homeowners' association owners, who are non-board members, is not required.

An association member can submit a written request to the board, asking the board to amend, within a reasonable time, the governing documents for the purpose of removing restrictive covenants. If a written request is made, the board has a duty to make amendments, as provided.

An amendment made under this process must be recorded in the public records with the verbatim language required in the statute, providing that the amendment was removed from the homeowners' association's governing documents as void under state law due to statutorily discriminating provisions.

In addition to any owner, occupant, or tenant being able to bring a superior court action to have statutorily discriminating language stricken from the public records, the association board may also bring such a cause of action.

Votes on Final Passage:

Senate	47	0
House	98	0

Effective: June 7, 2006

2SSB 6172
C 139 L 06

Increasing penalties for specified sex offenses.

By Senate Committee on Ways & Means (originally sponsored by Senators McAuliffe, Hargrove, Thibaudeau, Shin, Weinstein, Rockefeller, Keiser, Regala, Eide, Rasmussen and Benton).

Senate Committee on Human Services & Corrections
Senate Committee on Ways & Means
House Committee on Criminal Justice & Corrections
House Committee on Appropriations

Background: Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct. A person is guilty of Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct if he or she knowingly possesses visual or printed matter depicting a minor engaged in sexually explicit conduct. The crime is an "unranked" class C felony, punishable by zero to 12 months in jail. Persons convicted of knowingly possessing visual or printed matter depicting a minor engaged in sexually explicit conduct are not eligible for the Special Sex Offender Sentencing Alternative (SSOSA). A sentence under the SSOSA consists of a suspended standard range sentence, incarceration for up to 12 months, treatment for up to five years, and a term of community custody.

The Consequences of Classifying a Crime as a "Sex Offense" for Sentencing Purposes. Washington law identifies certain crimes as sex offenses for purposes of sentencing. The Legislature has established a whole series of consequences that are associated with being sentenced as a sex offender. For example, a person sentenced as a sex offender is not eligible for certain sentencing alternatives, such as the First Time Offender

Waiver or the Drug Offender Sentencing Alternative. Once incarcerated, he or she is not eligible for as much earned early release time as other offenders. After release, he or she must comply with the state's registration requirements and is subject to a mandatory term of community custody and mandatory Department of Corrections supervision in the community. If sentenced for a subsequent offense, the seriousness level of his or her prior sex offense will be tripled for purposes of sentencing.

In 1990, the Legislature enacted the Community Protection Act, which created one of the first sex offender registration laws in the country. A person convicted of a sex or kidnapping offense must register with the county sheriff of the county in which he or she lives. The person subject to the registration requirements must provide such information as his or her name, address, date and place of birth, place of employment, crime of conviction, date and place of conviction, aliases, Social Security number, photograph, and fingerprints. He or she must also notify the county sheriff if he or she is enrolled in public or private school or in an institution of higher education.

Summary: Possession of depictions of a minor engaged in sexually explicit conduct is raised from a class C to a class B felony. It is defined as a "sex offense" for sentencing purposes and ranked at a seriousness level VI for sentencing purposes. Voyeurism is ranked at a seriousness level II for sentencing purposes. Communication with a minor for immoral purposes includes electronic communications.

Votes on Final Passage:

Senate	45	3	
House	96	2	(House amended)
Senate	46	2	(Senate concurred)

Effective: June 7, 2006
July 1, 2006 (Section 5)

E2SSB 6175
C 341 L 06

Concerning the regulation of surface mining.

By Senate Committee on Ways & Means (originally sponsored by Senator Jacobsen; by request of Department of Natural Resources).

Senate Committee on Natural Resources, Ocean & Recreation
Senate Committee on Ways & Means
House Committee on Appropriations

Background: The Surface Mining Act was developed in 1970 in response to the Centralia coal facility as well as a growing concern about sand and gravel pits and their future impacts.

The Department of Natural Resources (DNR), Geology and Earth Resources Division regulates surface mining and the reclamation plans which must be prepared by the mine operator prior to mining. "Reclamation" means rehabilitation for future use of areas that have been disturbed by surface mining. The basic objective of reclamation is to reestablish the vegetative cover, soil, stability, and water conditions appropriate to the approved subsequent use of the surface mine and to prevent or mitigate future environmental degradation. Before DNR can issue a permit, the applicant must provide an acceptable reclamation plan and must deposit performance security to guarantee that appropriate reclamation is completed

Surface mine reclamation permit holders pay $1,000 for an application fee and $1,000 for an annual permit fee. Current fees do not adequately cover the cost for the state operation of the surface mining program. In addition, performance security requirements are cumbersome and/or outdated.

Summary: Surface mining fees collected by DNR are restructured as follows:

1) The application fee for a permit expansion or a new reclamation permit is increased to $2,500;
2) A non-refundable reclamation plan revision fee of $1,000, excluding expansions is added; and
3) The flat annual fee is replaced by a graduated annual fee based on tonnage of material mined in the previous 12 months, as follows: up to 50,000 tons, $1,250; over 50,000 and up to 350,000 tons, $2,500; and over 350,000 tons, $3,500.

If money is left over in the Surface Mining Reclamation Account, residual monies must be used at the end of each fiscal biennium to survey and map sand and gravel sites in the state.

DNR is authorized to refuse any performance security it deems inadequate to cover reclamation costs. Failure to perform required reclamation may result in a lien upon the permit holder's real and personal property. Acceptable forms of performance security are expanded to include irrevocable bank letters of credit and allow operators of multiple pits to provide blanket performance security.

An advisory committee is created to recommend changes for the Legislature to consider for the surface mining program.

Votes on Final Passage:

Senate	47	0	
House	72	24	(House amended)
Senate	47	0	(Senate concurred)

Effective: June 7, 2006
July 1, 2006 (Section 6)

SSB 6185
C 59 L 06

Modifying the family and medical leave act.

By Senate Committee on Labor, Commerce, Research & Development (originally sponsored by Senators Keiser, Kohl-Welles, Thibaudeau, Kline and Poulsen).

Senate Committee on Labor, Commerce, Research & Development
House Committee on Commerce & Labor

Background: Federal and state laws provide that certain employees are entitled to unpaid family and medical leave.

Under the federal Family and Medical Leave Act (FMLA), eligible employees are entitled to take up to 12 weeks of unpaid leave in a 12-month period for specified family and medical reasons, and to be reinstated to their original jobs or equivalent jobs upon their return.

An eligible employee is one who: (1) works for a covered employer; and (2) has worked for the same employer for at least 12 months, and for at least 1,250 hours over the previous 12 months. An employee is not eligible under FMLA if he or she works at a location at which the employer employs less than 50 employees if the total number employed within 75 miles of that worksite is less than 50. A covered employer is a private employer that had 50 or more employees in at least 20 weeks of the current or preceding year.

Leave may be taken for: (1) the birth and care of a child of the employee; (2) the placement of a child with the employee for adoption or foster care; (3) the care of an immediate family member who has a serious health condition; or (4) the serious health condition of the employee that makes the employee unable to work.

Under the state Family Leave Law, eligible employees are entitled to reinstatement to workplaces within 20 miles of their original workplaces. Employees are also entitled to leave for sickness or temporary disability related to pregnancy or childbirth in addition to leave under federal law. Enforcement of other provisions of the state Family Leave Law is currently suspended.

Summary: Portions of the state Family Leave Law are amended to conform in part to the federal Family and Medical Leave Act.

An employee is entitled to a total of 12 workweeks of leave in a 12 month period for any of the following: (1) the birth of a child; (2) the placement of a child with the employee for adoption or foster care; (3) to care for a family member of the employee, if the family member has a serious health condition; or (4) for a serious health condition that makes the employee unable to perform his or her job duties. The leave entitlement for birth or placement of a child expires at the end of the 12 month period beginning on the date of the birth or placement.

The act applies to all employers in the state, including local governments, which employ 50 or more employees for each working day during each of 20 or more calendar workweeks in the current or preceding calendar year. The provisions of the bill also apply to the state, state institutions and state agencies, regardless of size.

Leave may be taken intermittently or on a reduced leave schedule, with the employer's agreement: (1) for the birth or placement of a child; (2) when medically necessary for the medical treatment of a serious health condition; or (3) to provide care or psychological comfort to an immediate family member with a serious health condition. There is no limit on the size of the increment of intermittent or reduced leave although the employer may limit leave increments to the shortest period of time that the employer's payroll system uses to account for absences or use of leave. Intermittent or reduced schedule leave cannot result in a reduction of the total amount of leave to which the employee is entitled.

"Serious health condition" is defined in the same manner as in regulations adopted by the federal Secretary of Labor.

If the leave for birth or placement of a child is foreseeable based on the expected birth or placement, the employee must provide the employer with at least 30 days notice before the date leave is to begin. If the birth date or placement makes giving 30 days notice impracticable, then the employee must provide as much notice to the employer as possible.

If leave to care for a family member with a serious health condition or because of the employee's health condition becomes necessary, the employee must make a reasonable effort to schedule the treatment so as to not unduly interrupt the operations of the employer. The employee must also provide the employer notice of leave at least 30 days before leave is to begin, unless impracticable.

An employer may require that a leave request for a family member's serious health condition or the employee's serious health condition be supported by a health care provider's certification. The employee must provide a copy of the certification to the employer in a timely manner. If the employer has reason to doubt the validity of the certification, he or she can request the opinion of a second health care provider.

Any person taking leave under this act is entitled to the following upon return from leave: (1) to be restored to the position he or she held when leave started; or (2) to be restored to an equivalent position with equal benefits, pay and other terms and conditions of employment at a workplace within 20 miles of the employee's workplace when leave commenced. Employees maintain all employment benefits accrued before leave was taken.

During the leave period, if the employee is not eligible to receive employer-paid benefits, the employee may opt to continue the benefits at the employee's expense.

The premium paid by the employee cannot exceed 102 percent of the applicable premium for the leave period.

An employer cannot discharge or discriminate against any employee who takes leave under this act.

The director of the Department of Labor and Industries (L&I) is required to investigate any complaint under this act. Any employer found to have violated the act after an investigation is subject to a civil penalty of at least $1000 per violation. These penalties are collected by L&I and deposited into the Family and Medical Leave Enforcement Account, which is created in this act. Employees may also bring suit directly against the employer for violation of this act and could recover damages equal to the amount of wages, benefits, salary or other compensation lost or denied as a result of the violation or any actual monetary losses as a result of the violation up to a sum equal to 12 weeks of the employee's wages or salary.

Employers are required to post notice of the provisions of this act. Willful failure to post this notice could subject an employer to a civil penalty of $100 per violation.

Leave under this act and leave under the federal act are in addition to any sick or temporary disability leave provided because of pregnancy or childbirth. Leave under state law must be taken concurrently with leave under the federal FMLA.

The provision suspending enforcement of the State Family Leave Law is repealed.

Votes on Final Passage:

Senate	37	12
House	54	44

Effective: June 7, 2006

SSB 6188
C 367 L 06

Providing health benefit plans offering coverage for prostate cancer screening.

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Johnson, Keiser, Oke, Rockefeller, Thibaudeau and Kohl-Welles).

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

Background: Prostate cancer is the most common non-skin cancer in America. In 2006, it is estimated that over 232,000 men will be diagnosed with the disease. Over 30,000 will die from it, making it the second leading cause of cancer-related deaths among men in this country. The chance of having prostate cancer increases rapidly after age 50, with more than 70 percent of all prostate cancers diagnosed in men over age 65.

Early prostate cancer usually has no symptoms, and is most commonly detected through screening. If detected soon enough, the cancer can be eliminated from the body, although current evidence is insufficient to establish a direct relationship between screening for prostate cancer and reduced mortality.

The state Department of Health estimates that each year about 4,500 men in Washington are diagnosed with prostate cancer, and about 600 die from the disease. A 2002 survey by the Centers for Disease Control showed that just less than 50 percent of men in this state over age 50 had been screened for prostate cancer in the preceding year.

Summary: After December 31, 2006, health plans are required to cover prostate cancer screening, provided that the screening is delivered upon the recommendation of a patient's physician, advanced registered nurse practitioner, or physician assistant. This does not prevent the application of standard policy provision applicable to other benefits, such as deductibles. Neither does it prevent contracting with specific providers for delivery of the screening services. The requirement applies to disability insurers, health care service contractors, health maintenance organizations, self-funded multi-employee welfare arrangements, the Basic Health Plan, the Uniform Medical Plan for state employees, and medical assistance programs provided by the Department of Social and Health Services.

Votes on Final Passage:

Senate	42	1	
House	86	12	(House amended)
Senate	47	0	(Senate concurred)

Effective: June 7, 2006

ESSB 6189
C 60 L 06

Requiring hospitals to provide patients certain billing information.

By Senate Committee on Health & Long-Term Care (originally sponsored by Senator Keiser).

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

Background: Hospitals in Washington are subject to regulation by the state Department of Health, although the regulations do not address pricing policies or procedures. There is concern that hospital billing procedures are not patient friendly and that receiving multiple bills for a single hospital stay, often filled with procedure codes and other specialized terminology, leaves many who receive treatment frustrated and confused about the services they received, and to whom any charges are to be paid.

Summary: The Legislature's intent is to encourage hospitals to design the implementation of health information

technologies to provide patients with understandable billing information.

Hospitals are required to furnish patients with a list of those professionals that commonly provide care at the hospital and from whom the patient may get a bill, along with appropriate contact information. Hospitals owned or operated by a health maintenance organization are exempt.

Votes on Final Passage:

Senate	42	1
House	96	1

Effective: June 7, 2006

2SSB 6193
C 236 L 06

Requiring surveys of health professions work force supply and demographics.

By Senate Committee on Ways & Means (originally sponsored by Senators Franklin, Regala, Keiser, Eide, Prentice, Rasmussen, Jacobsen, Fairley, McAuliffe, Fraser, Brown, Kline, Kohl-Welles, Parlette and Shin).

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

Background: Persons of color experience disparities from the general population in education, employment, healthy living conditions, access to health care, and other social determinants of health.

Research has shown that increasing the number of people of color in the health care workforce and expanding the cultural competence of everyone who works in health care can reduce health disparities.

For quite some time, communities of color have been voicing concerns about health disparities. Out of these concerns and policy makers' sensitivity to the issue, Senate Concurrent Resolution 8419 was introduced and passed by the Legislature in 2004 creating the Joint Select Committee on Health Disparities.

The committee issued a report on health disparities in Washington on November 1, 2005. The report included findings and recommendations to be considered by the Legislature. The committee identified the need to develop a workforce that is representative of the diversity of our state's population. Prior to developing such a work force, relevant and accurate data on health care professionals, students in health care professions, and recipients of health services must first be collected.

Among the committee's recommendations is a request that the Department of Health work with the Work Force Training and Education Coordinating Board to develop a survey to collect relevant workforce data. The board has 11 members and works in conjunction with labor, business, and government leaders to develop strategies for a well trained, highly paid work force.

Summary: Every two years the Department of Health, in collaboration with the Work Force Training and Education Coordinating Board, must distribute a voluntary survey to licensed health care providers.

The Department of Health is required to seek advice from researchers likely to use the data when developing the survey. At a minimum, the survey collects data related to age, gender, race, ethnicity, area of practice, zip code of practice location, years in practice, and type of facility where a provider practices.

The Department of Health is required to report on the effectiveness of the survey program by July 1, 2009. The act expires January 1, 2012.

Votes on Final Passage:

Senate	43	2	
House	75	23	(House amended)
Senate	47	1	(Senate concurred)

Effective: June 7, 2006
July 1, 2006 (Section 1)

ESB 6194
C 237 L 06

Requiring multicultural education for health professionals.

By Senators Franklin, Regala, Keiser, Eide, Prentice, Thibaudeau, Jacobsen, Fairley, McAuliffe, Fraser, Spanel, Kline, Kohl-Welles and Shin.

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

Background: Persons of color experience disparities from the general population in education, employment, health living conditions, access to health care, and other social determinants of health.

For quite some time, communities of color have been voicing concerns about health disparities. Out of these concerns and policy makers' sensitivity to the issue, Senate Concurrent Resolution 8419 was introduced and passed by the Legislature in 2004 creating the Joint Select Committee on Health Disparities.

The committee issued a report on health disparities in Washington on November 1, 2005. The report included findings and recommendations to be considered by the Legislature. The committee identified the need to enhance the knowledge, attitudes, and practice skills of health professionals and those working with diverse populations to achieve a greater understanding of the relationship between culture and health.

Summary: Multi-cultural health is defined. The Department of Health is required to establish an ongoing multi-cultural health awareness and education program.

Disciplining authorities that offer continuing education may provide multi-cultural health training. Education programs for health care professions are required to integrate instruction in multi-cultural health into the basic education preparation curriculum no later than July 1, 2008.

Votes on Final Passage:

Senate	32	13	
House	67	31	(House amended)
Senate	35	12	(Senate concurred)

Effective: June 7, 2006

SSB 6196
C 238 L 06

Including a health official from a federally recognized tribe on the state board of health.

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Franklin, Regala, Keiser, Eide, Rockefeller, Prentice, Thibaudeau, Jacobsen, Fairley, McAuliffe, Fraser, Sheldon, Brown, Spanel, Kline, Kohl-Welles, Shin and Esser).

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

Background: The State Board of Health was created to provide a forum for the development of public health policy in Washington State. The board is authorized to recommend to the Secretary of Health means for obtaining appropriate citizen and professional involvement in all public health policy formulation.

The board is composed of ten members: the Secretary of the Department of Health (or his or her designee); four persons experienced in matters of health and sanitation; an elected city official and county official who are members of their local health boards; a local health officer; and two persons representing the consumers of health care.

Senate Concurrent Resolution 8419 was introduced and passed by the Legislature in 2004 creating the Joint Select Committee on Health Disparities. The committee issued a report on health disparities in Washington on November 1, 2005. The report contained several recommendations and findings to be considered by the Legislature. The committee identified the need for Native Americans to have a larger role in the development of public health policy in our state.

Summary: The policy creates a requirement that one of the existing ten members of the State Board of Health is a member of a federally recognized tribe.

Votes on Final Passage:

Senate	45	0	
House	56	42	(House amended)
Senate	46	1	(Senate concurred)

Effective: June 7, 2006

2SSB 6197
C 239 L 06

Creating the governor's interagency coordinating council on health disparities.

By Senate Committee on Ways & Means (originally sponsored by Senators Franklin, Regala, Eide, Prentice, Fraser, Brown, Kline, Kohl-Welles and Shin).

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

Background: Persons of color experience significant disparities from the general population in education, employment, healthful living conditions, access to health care, and other social determinants of health. The inability to access culturally appropriate health care results in higher rates of morbidity and mortality for persons of color.

For quite some time, communities of color have been voicing concerns about health disparities. Out of these concerns and policy makers' sensitivity to the issue, Senate Concurrent Resolution 8419 was introduced and passed by the Legislature in 2004 creating the Joint Select Committee on Health Disparities.

The committee issued a report on health disparities in Washington on November 1, 2005. The report included findings and recommendations to be considered by the Legislature. The committee identified the need to facilitate communication between state agencies, communities of color, and the public and private sector regarding the issues surrounding health disparities.

Summary: The Governor's Interagency Coordinating Council on Health Disparities is established.

The council consists of members from state commissions, boards and councils relevant to education, commerce, health care consumers, the Department of Early Learning and workforce training.

The council is required to hold public hearings, gather information, and conduct studies to understand how the actions of state government can contribute to or help reduce health disparities. The council is required to meet at least two times per calendar year.

The Board of Health is required to conduct health impact reviews in collaboration with the Governor's Interagency Coordinating Council on Health Disparities. Health impact reviews are defined as a review of a legislative or budgetary proposal that determines the extent to which the proposal improves or exacerbates health disparities.

Any state legislator or the Governor can request a health impact review.

Votes on Final Passage:

Senate	43	4	
House	58	40	(House amended)
Senate	38	10	(Senate concurred)

Effective: June 7, 2006

SB 6208
C 46 L 06

Simplifying session law publication.

By Senators Rockefeller and Johnson; by request of Statute Law Committee.

Senate Committee on Judiciary
House Committee on Judiciary

Background: The Statute Law Committee publishes session laws after each legislative session. The session laws contain all of the bills passed for the most recent session. The committee must meet specific requirements as to the number of copies published, and must publish both temporary and permanent versions of the laws.

Summary: The specific number of copies of session laws the committee must publish is removed; the committee must publish only as many copies of the session laws as necessary. The list of entities entitled to receive copies of the session laws is updated, and certain specified entities may request sets of session laws for their official business. Surplus copies of the session laws will be sold and the money received paid into the State Treasury for the general fund. The committee is not required to publish a temporary set of session laws.

Votes on Final Passage:

Senate	47	0
House	98	0

Effective: June 7, 2006

SSB 6223
C 153 L 06

Modifying provisions regarding abandoned or derelict vessels.

By Senate Committee on Natural Resources, Ocean & Recreation (originally sponsored by Senators Rockefeller, Regala, Oke, Berkey and Spanel).

Senate Committee on Natural Resources, Ocean & Recreation
House Committee on Natural Resources, Ecology & Parks

Background: In 2002, the statutes relating to derelict vessels were passed based upon the legislative finding that such vessels are public nuisances, pose a danger to navigation, detract from Washington's scenery, and threaten the environment. Thus, an authorized public entity is allowed, subject to the processes outlined in statute, to take custody of and to use or dispose of an abandoned or derelict vessel found on or above aquatic land within that entity's jurisdiction. Additionally, the owner of an abandoned or derelict vessel is generally responsible for reimbursing the authorized public entity for reasonable and auditable costs of removal or disposal.

According to data provided by the Department of Natural Resources (DNR), DNR has removed 25 vessels since the institution of the program, other authorized public entities have removed 72 vessels, and 41 owners have removed their vessels after being made aware of the program. There has been limited use of the program by smaller jurisdictions and approximately 100 vessels remain on the derelict vessel inventory.

Summary: New language is added making it a misdemeanor to cause a vessel to become abandoned or derelict upon aquatic lands.

Changes are made to provisions governing the actions of authorized public entities where a vessel is in immediate danger of sinking, breaking up, or blocking navigational channels. In such circumstances, where the owner of the vessel cannot be located or is unwilling or unable to assume immediate responsibility, any authorized public entity may take temporary possession of the vessel. Before taking possession of the vessel, the entity must make reasonable attempts to contact either DNR or the United State Coast Guard. If the entity has not already provided the required notice for taking possession of a vessel, it must do so immediately after taking possession. Where temporary possession of a vessel is taken, an authorized public entity can require payment of its reasonable and auditable costs before releasing the vessel back to the owner.

A person seeking to contest a state agency's decision to take temporary possession or custody of a vessel or to contest the amount of reimbursement owed may request a hearing with DNR. A person seeking to contest such an action by a local government must do so under procedures adopted by the local government or, if such procedures have not been adopted, by appeal to superior court under RCW 53.08.320(5).

The derelict vessel removal account is authorized to receive gifts, grants, and endowments from public or private sources for the use and benefit of the derelict vessels program. Authorized public entities may be reimbursed for up to 90 percent, as opposed to the current 75 percent, of the total reasonable and auditable administrative costs of removal and disposal where the previous owner is unknown or insolvent. Additionally, costs associated with the removal and disposal of an abandoned or derelict vessel under the authority of a port district may expressly be reimbursed from the account.

The provision governing lawsuits for the redemption

of a vessel in the custody of an authorized public entity is repealed.

Votes on Final Passage:

Senate	46	0	
House	98	0	(House amended)
Senate	45	0	(Senate concurred)

Effective: June 7, 2006

SSB 6225
C 185 L 06

Regulating the business of installing, repairing, and maintaining domestic water pumping systems.

By Senate Committee on Labor, Commerce, Research & Development (originally sponsored by Senators Rasmussen, Honeyford, Haugen, Morton, Hewitt, Rockefeller, Pflug, Parlette, Shin and Oke).

Senate Committee on Labor, Commerce, Research & Development
House Committee on Commerce & Labor

Background: A person who works on domestic water system pumps is regulated under a number of statutes, and must be: (1) registered as a general contractor or the applicable specialty contractor(s) with the Department of Labor and Industries (L&I); (2) licensed as a journeyman or specialty plumber by L&I to install, alter, repair, or renovate a water system (not including water softening or water treatment equipment) or liquid waste systems, if the plumbing work is done within a building other than a pump house; (3) licensed as a specialty, journeyman or master journeyman electrician and, if applicable, must obtain an electrician administrator's certificate, to install or maintain electrical wires and equipment; and (4) licensed by the Department of Ecology (DOE) if the work involves drilling or constructing new wells, or the alteration of an existing well. DOE has additional responsibilities regarding the protection of groundwater from pollution. The Department of Health also regulates and certifies operators of water systems serving more than one residence.

Summary: A system is created within L&I to coordinate the registration of the plumbing and electrical aspects of a person who installs, maintains, and repairs the pressurization and filtration equipment that acquires, treats, stores, and moves water for domestic use, including irrigation, to one or more residences, or certain owner-operated farms.

To work on pressurization and filtration equipment, it must be located either: (1) outside of a building; (2) in a well house; or (3) within a designated interior space (i.e. garage, basement, crawl space) of a residential structure. A licensed plumber or electrician must work on equipment located within a residential structure. A licensed electrician must also install wiring to a designated disconnect switch for equipment located outside of a building.

The State Advisory Board of Plumbers exercises authority over a newly created specialty plumbing classification for domestic well water pump installation, and the Board is expanded to include a specialty plumber and a specialty plumbing contractor.

The Electrical Board retains authority over the electrical work performed by persons certified to perform domestic well water systems. Until July 1, 2007, instead of issuing citations, L&I will issue one written warning to each person who performs such work without a valid electrician certification which advises that the person must apply for certification within 30 days of the warning.

Electricians performing electrical work on domestic well water systems within the scope of work of their license, and plumbers performing plumbing work on domestic well water systems within the scope of work of their license are not required to possess the certification of competency created by this act.

Votes on Final Passage:

Senate	41	0	
House	97	1	(House amended)
Senate	45	0	(Senate concurred)

Effective: June 7, 2006

ESSB 6230
C 298 L 06

Extending the state sales and use tax credit for certain public facilities districts.

By Senate Committee on Ways & Means (originally sponsored by Senators Parlette, Doumit, Zarelli, Prentice, Rasmussen and Mulliken).

Senate Committee on Ways & Means

Background: A public facilities district may be created by either a city or a county. City public facilities districts may develop and operate regional centers. A regional center is a convention, conference, or special events center, or any combination, constructed, improved, or rehabilitated at a cost of at least ten million dollars. A special events center is a facility, available to the public, used for community events, sporting events, trade shows, and artistic, musical, theatrical, or other cultural exhibitions, presentations, or performances.

County public facilities districts may develop and operate sports facilities, entertainment facilities, convention facilities, and regional centers.

Public facilities districts may levy an admissions tax not exceeding 5 percent, a vehicle parking tax not exceeding 10 percent, a voter-approved 0.2 percent sales tax, and, for a county public facilities district, a voter-approved 2 percent lodging tax.

In addition to these taxes, public facilities districts formed prior to July 31, 2002, that commenced construction on a new regional center or improvement or rehabilitation of an existing regional center before January 1, 2004, may impose a 0.033 percent sales and use tax that is credited against the state sales and use tax. The monies collected from this tax must be matched with private or other public sources equal to 33 percent of the monies collected. The public source cannot include nonvoter-approved taxes authorized by the public facilities district. If both a city public facilities district and a county public facilities district impose this tax, the city tax is credited against the county tax.

Summary: The 0.033 percent sales and use tax that is credited against the state tax for a regional center is extended to public facilities districts created before July 1, 2006, in a county or counties in which there are no other public facilities districts on the effective date of the bill and in which the total population in the public facilities district is greater than ninety thousand that commences construction of a new regional center before February 1, 2007.

Votes on Final Passage:

Senate	47	1
House	98	0

Effective: June 7, 2006

SB 6231
C 61 L 06

Exempting certain private air ambulance services from licensing under the insurance code.

By Senator Spanel; by request of Insurance Commissioner.

Senate Committee on Financial Institutions, Housing & Consumer Protection
House Committee on Financial Institutions & Insurance

Background: Legislation passed in 2005 (ESSB 5736) required the Office of the Insurance Commissioner (OIC) to provide a feasibility study to the Legislature regarding subscription air ambulance services. Air ambulances have been controversial for various reasons, including the issue of whether they should be regulated as "insurers," or whether there may be some alternate method of providing consumer protection for subscribers of air ambulance services. This bill is the result of the OIC's research and recommendations.

Summary: Private air ambulance services that solicit and accept membership subscriptions, charge fees and provide services are not considered to be insurers under Washington State statutes, if they meet licensure and aeromedical transport services criteria, have been in operation in Washington for a minimum of two years, and submit evidence of compliance to the OIC

Votes on Final Passage:

Senate	47	0
House	97	0

Effective: June 7, 2006

SSB 6234
PARTIAL VETO
C 284 L 06

Creating the insurance fraud program.

By Senate Committee on Financial Institutions, Housing & Consumer Protection (originally sponsored by Senators Fairley, Keiser, Spanel and Esser; by request of Insurance Commissioner).

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

Background: National studies show that more than 10 percent of insurance claims are fraudulent, costing consumers and insurance companies millions of dollars. Washington State is the tenth highest in the U.S. for questionable claims. Organized crime conspiracies are responsible for some of the fraudulent claim activity, costing Washington companies and consumers millions of dollars.

States with organized comprehensive antifraud units tend to have significantly lower rates of fraudulent claims. Forty one states have insurance antifraud units.

Summary: An antifraud unit is created within the Office of the Insurance Commissioner (OIC). The primary focus of the unit is high impact cases involving organized criminal activity. Insurers are mandated to report fraudulent activity, and provided with immunity from liability for reporting. Information is generally protected by the fraud unit, (by information-sharing agreements) but may, in some circumstances, be discoverable or admissible as evidence in private civil litigation. Some information may be exempted from public disclosure.

The antifraud unit includes investigation and prosecution of fraudulent claims. The unit is staffed within the OIC, with interagency agreements providing an investigator to the Washington State Patrol, and a prosecuting attorney in the Attorney General's Office. Grants reimburse local prosecutors for fraud case work.

Information is shared among various federal, state, and local law enforcement agencies and regulatory agencies. Fraud investigators who are statutorily certified have the status of limited authority peace officers.

A ten-member Insurance Fraud Advisory Board is created, and criminal penalties are increased. Fraud warnings are required on applications and claim forms.

Votes on Final Passage:

Senate	35	10	
House	98	0	(House amended)
Senate	29	18	(Senate concurred)

Effective: July 1, 2006

Partial Veto Summary: A redundant section of the law, dealing with documents exempted from the Public Disclosure Act, is vetoed, to prevent technical inconsistency in statute.

VETO MESSAGE ON SSB 6234

March 28, 2006

To the Honorable President and Members,
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning, without my approval as to Section 18, Substitute Senate Bill No. 6234 entitled:

"AN ACT Relating to insurance fraud."

Part of SSB 6234 creates a new exemption for certain documents under the Public Disclosure Act. Section 17 adds the exemption to the new public disclosure act section, RCW 42.56.400. Chapter 42.56 RCW takes effect July 1, 2006.

Section 18 also adds the same exemption as a new section to Chapter 42.17 RCW. Chapter 42.17 RCW, however, expires on July 1, 2006. Consequently, we should not add a new statutory exemption to that Chapter. Pursuant to Section 17 of SSB 6234, the new exemption will be in the proper Chapter. Therefore, to avoid duplication and the inadvertent creation of a technical problem, Section 18 must be vetoed.

For these reasons, I have vetoed Section 18 of Substitute Senate Bill No. 6234.

With the exception of Section 18, Substitute Senate Bill No. 6234 is approved.

Respectfully submitted,

Christine Gregoire

Christine O. Gregoire
Governor

ESB 6236
C 344 L 06

Changing election dates and deadlines.

By Senators Schmidt, Kastama, Swecker, Oke, Berkey and Benson; by request of Secretary of State.

Senate Committee on Government Operations & Elections

House Committee on State Government Operations & Accountability

Background: The state primary election is held either the third Tuesday in September or the seventh Tuesday before the general election, whichever is earlier.

Washington law requires absentee ballots to be ready for mailing 20 days before an election, and the county auditor is to make every effort to mail ballots to overseas and service voters earlier than 18 days before a primary or election. Returned absentee ballots will be counted up until certification, which occurs 10 days after a primary election and 21 days after a general election. The time between the date ballots are mailed to service and overseas voters and the date the voted ballots are due back to local election administrators is 30 days for primary ballots and 41 days for general election ballots. The Federal Voting Assistance Program (FVAP), administered by the Department of Defense, recommends a minimum of 45 days of transit time.

Declarations of candidacy are filed the week starting the fourth Monday in July. Minor party and independent candidate nominating conventions are held between the last Saturday in June and the first Saturday in July. A number of other election-related events are conditioned on circumstances occurring before or after the sixth Tuesday before the primary. For example, a special three-day filing period is opened when a void in candidacy for a nonpartisan office occurs before the sixth Tuesday before the primary.

Incumbent legislators may not engage in fund-raising activity during a period starting 30 days before session and ending 30 days after session.

Summary: The date of the state primary election is moved to the third Tuesday in August. A number of other election-related events and deadlines are changed to conform with the new primary date as follows:

Candidate Filing. The date for filing a declaration of candidacy is changed from the fourth week in July to the first week in June. Minor party and independent candidate nominating conventions must occur between the first and second Saturdays in May. Election events are conditioned on circumstances occurring before or after the eleventh Tuesday before the primary rather than the sixth Tuesday.

Service and Overseas Voters. County auditors must mail ballots to overseas and service voters at least 30 days before any election. Requests for ballots made after the date required for mailing must be processed immediately.

Special Elections. Resolutions calling for a county, city, town, or district special election must be presented to the county auditor at least 52 days prior to the special election, rather than 45 days. If the special election is to be held on the day of the primary or the general election, the resolution must be filed with the auditor 84 days before the election.

Presidential Preference Primary. In order to appear in the presidential preference primary, nomination petitions for presidential candidates must be filed with the Secretary of State no later than 60 days before the presidential preference primary, rather than 39 days before.

Certification of Results. A county canvassing board must complete the canvass and certify the results of a primary or special election in 15 days.

Campaign Reporting. Candidates who are successful in the primary election and any continuing political

committees must file a report of contributions and expenditures to the PDC the tenth day of the first month after the primary. Contribution and expenditure reporting requirements are changed to begin on the fifth month, rather than the fourth month, prior to a general election.

Post-session Campaign Freeze. The end of the campaign fund-raising freeze is changed from 30 days after session to the day of final adjournment.

Votes on Final Passage:

Senate	37	11
House	94	3

Effective: January 1, 2007

E2SSB 6239
C 339 L 06

Changing provisions relating to controlled substances.

By Senate Committee on Ways & Means (originally sponsored by Senators Hargrove, Johnson, Doumit, Oke, Stevens and Esser; by request of Attorney General).

Senate Committee on Human Services & Corrections
Senate Committee on Ways & Means
House Committee on Criminal Justice & Corrections
House Committee on Appropriations

Background: Methamphetamine (meth) is an addictive stimulant drug. A task force convened by the Attorney General in 2005, which included legislators, law enforcement officers, prosecutors, treatment providers, and other stakeholders, assessed the extent of the meth problem in Washington State.

The task force recommended changes to Washington laws in the areas of substance abuse reduction including: 1) drug-free workplace provisions, pilot programs and task forces; 2) cleanup of contaminated property; and 3) criminal penalties and procedures.

Drug Task Force Funding. Previously, two federal grant programs, the Bryne Formula Grant Program and the Local Law Enforcement Block Grant, provided federal funding for local drug task forces. These grants were administered by the Department of Community, Trade, and Economic Development (CTED). In Fiscal Year (FY) 2004, CTED allocated $4.163 million in federal funding for local drug task forces. Since then, the federal government combined these two programs into the Justice Assistance Grant (JAG), also administered by CTED. The total amount of funding available was reduced by approximately 40 percent in FY 2006 and is projected to be reduced another 40 percent in FY 2007. The current estimate of federal funding for local drug task forces is $2.343 million for FY 2007. Counties may receive JAG money either by applying for funding through CTED or applying directly to the Department of Justice. While most Washington counties have been part of a federally funded drug task force, 10 counties have not been included. They are Columbia, Island, Jefferson, Kittitas, Klickitat, Lincoln, Mason, Pacific, Pend Oreille, San Juan, Stevens, and Walla Walla.

Chemical Dependency Treatment at the Department of Corrections. The Department of Corrections (DOC) currently limits chemical dependency treatment for inmates to priority inmates. Inmates prioritized for treatment include those determined to be at high risk for violent reoffending and those sentenced under the Drug Offender Sentencing Alternative (DOSA). In fiscal year 2004, DOC admitted 3,800 inmates to treatment while in prison, out of a total average daily prison population of 16,700.

Senate Bill 5763. Last year the Legislature passed SB 5763. One of the provisions in the legislation provided county governments the authority to impose a 1/10 of 1 percent sales tax dedicated to new and expanded therapeutic drug courts for dependency proceedings, and a new and expanded mental health and chemical dependency treatment services.

Cleanup of Contaminated Property. The chemicals which are used in the manufacture of meth can contaminate structural materials, furnishings, wastewater systems, and soils. Decontamination of the property is necessary to reduce the public health risks of injuries and hazardous exposures associated with those chemicals.

The State Board of Health and the Department of Health (DOH) establish standards, procedures, and responsibilities for regulating the occupancy and use of property where hazardous chemicals or chemical residues commonly associated with the manufacture of controlled substances are or may be present. DOH Clandestine Drug Lab Program ensures that contaminated sites are cleaned to public health standards. DOH also certifies contractors to decontaminate properties, and provides technical assistance and training to local health jurisdictions, government agencies, and community organizations.

Local health jurisdictions assess properties to determine the degree and extent of contamination due to chemical residues and other biohazards. The local health officers are also responsible for: 1) providing notice regarding the property to occupants and owners; 2) reporting contaminated property to DOH; 3) determining whether a contractor is required for decontamination; 4) verifying that decontamination has occurred; and 5) recording the decontamination with the county auditor.

The Washington State Model Toxics Control Act (MTCA). MTCA outlines the liabilities and responsibilities of the owner or operator of a site that has been contaminated by a hazardous substance or substances. The cleaning of these contaminated sites can be the responsibility of a broad range of individuals.

Drug Offender Sentencing Alternative (DOSA). Offenders convicted of drug offenses, for which the stan-

dard range sentence is over 12 months in prison, may be eligible for the drug offense sentencing alternative (DOSA). In addition to the prison-based DOSA sentencing alternative, the 2005 Legislature enacted a residential treatment DOSA. If the court elects to impose a prison-based DOSA sentence, the term of incarceration is one-half of the midpoint of the standard range during which DOC is required to provide an assessment and appropriate drug treatment. The offender must serve the remainder of the midpoint of the standard range in community custody which must include outpatient drug treatment.

Summary: Substance Abuse Reduction. Counties that impose the tax authorized in SB 5763 are eligible to seek up to $100,000 from the Legislature for additional mental health or substance abuse treatment programs for persons addicted to methamphetamine, beginning in fiscal year 2008 and ending in fiscal year 2010. Three pilot projects are established to provide rural drug task forces to the three parts of the state. Each pilot project will receive four additional deputy sheriffs, two deputy prosecutors, and one clerk. Legislative intent is declared to provide the pilot projects with $1.6 million in funding, and to provide a minimum of $4 million in funding for multijurisdictional task forces currently in operation. The definition of "neglect" of vulnerable adults and children is amended to include exposure to meth or ingredients of meth when there is intent to manufacture meth. CTED will review funding sources for local meth action teams through the Washington State meth initiative and drug task forces to determine their adequacy and report its findings to the Legislature by November 2006.

Authority and Discretion of Local Health Officers. When they have probable cause, local health officers (LHOs), in consultation with law enforcement officers, are granted the authority to seek a warrant to conduct inspections of property. LHOs are granted the authority to issue emergency, seventy-two-hour orders when they determine the order is necessary to protect the public health, safety, or the environment.

In addition to condemning or demolishing contaminated property, city or county officials may take additional actions such as prohibiting the use, occupancy, or removal of property, or ordering its decontamination. These actions are appealable; however, restrictions on use, occupancy, or removal of property are enforceable while the appeal is pending. City and county personnel, and their cleanup contractors, must comply with the local health officer's orders.

It is a misdemeanor for anyone to enter property after an order declaring it to be unfit has been issued. Exceptions are provided for governmental officials performing their duties, occupants recovering uncontaminated property, and for others as authorized by a public health officer or superior court.

In addition to decontamination, the owners or authorized contractors are required to submit written work plans for demolition or disposal activities. Property owners are responsible for: 1) the costs of any property testing which may be required to demonstrate the presence or absence of hazardous chemicals; and 2) the costs of the property's decontamination, demolition, and disposal expenses, as well as costs incurred by the local health officer. Within 30 days of issuing an order of unfitness, the local health officer must establish a time period in which decontamination, demolition, and disposal will be completed and fines or legal actions may be taken upon failure to meet the deadline.

Modification to Certification Requirements for Cleanup Workers. DOH authority to deny, suspend, revoke, or place restrictions on certificates is expanded to include: 1) failing to perform decontamination, demolition, or disposal work using department certified decontamination personnel; 2) failing to perform work that meets the requirements of the local health officers; 3) failing to properly dispose of contaminated property; 4) failing to cooperate with DOH or the local health officer; or 5) failing the evaluation and inspection of decontamination projects. Additionally certified workers' fraudulent acts or acts of misrepresentation are expanded to include: 1) applying for, or obtaining a certification, recertification, or reinstatement; 2) seeking approval of a work plan; and 3) documenting completion of work to DOH or local health officer.

Department of Health Cleanup Evaluations. DOH must modify its rules to include methods for the testing of porous and nonporous surfaces. DOH must also adopt rules about independent third party sampling to verify satisfactory decontamination of property.

DOH may annually evaluate a number of the property decontamination projects performed by licensed contractors to determine the adequacy of the decontamination work. If a project fails the evaluation and inspection, the contractor is subject to a civil penalty and license suspension and is prohibited from performing additional work until deficiencies have been corrected.

Department of Ecology. Department of Ecology (DOE), in consultation with local health jurisdictions and their corresponding city or county governments, will conduct a pilot program to demonstrate application of existing MTCA and other available resources to cleanup methamphetamine contaminated property for public purpose. DOE will report to the Legislature on the effects of the pilot program by January 1, 2007.

Sentencing Modifications. Sentence enhancements for ranked drug offenses are to be served consecutively. Drug Offender Sentencing Alternative offenders will serve 12 months or up to the half point of a sentence, whichever is greater. When the court determines that chemical dependency contributed to the felony offense, the offender, not just drug offenders, must receive a chemical dependency screening report prior to sentencing.

Washington State Institute for Public Policy. Washington State Institute for Public Policy (WSIPP) must conduct two studies and report its findings to the Legislature by January 1, 2007. First, WSIPP will study neighboring states criminal sentencing provisions related to methamphetamine to determine if these provisions provide an incentive for traffickers and manufacturers to relocate to Washington. Second, the WSIPP will study DOSA's impact on recidivism rates for offenders participating in DOSA relative to offenders receiving community treatment or no treatment at all.

Votes on Final Passage:

Senate	42	0	
House	98	0	(House amended)
Senate	48	0	(Senate concurred)

Effective: June 7, 2006
January 1, 2007 (Section 108)

SSB 6241
PARTIAL VETO
C 370 L 06

Making 2006 supplemental transportation appropriations.

By Senate Committee on Transportation (originally sponsored by Senators Haugen, Benson and Jacobsen; by request of Governor Gregoire).

Senate Committee on Transportation
House Committee on Transportation

Background: The operating and capital expenses of state transportation agencies and programs are funded on a biennial basis by an omnibus transportation budget adopted by the Legislature in odd-numbered years. Additionally, supplemental budgets may be adopted during the biennium making various modifications to agency appropriations.

Summary: The 2005-07 biennial appropriations for various transportation agencies and programs are modified. (See committee supporting documents for more detail.)

Votes on Final Passage:

Senate	45	0	
House	85	13	(House amended)
Senate			(Senate refused to concur)
Conference Committee			
House	93	5	
Senate	49	0	

Effective: March 31, 2006

Partial Veto Summary: The Governor vetoed seven sections or parts of sections (appropriation items) in the supplemental transportation appropriations act. In addition to removing certain directive language, the net effect of the seven vetoes is to decrease state appropriations originally provided in the bill by $273,000.

VETO MESSAGE ON SSB 6241

March 31, 2006

To the Honorable President and Members,
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning, without my approval as to portions of Sections 204, 212(6), 213(5), 214(5), 304(16), 307(8), and 309(19) of Substitute Senate Bill 6241 entitled:

"AN ACT Relating to transportation funding and appropriations."

My reasons for vetoing portions of the above-noted Sections are as follows:

Section 204, page 6, Board of Pilotage Commissioners, Trainee Stipends

Section 204 provides additional appropriation authority to the Board of Pilotage Commissioners for pilot trainee stipends. Appropriation authority was provided in Engrossed Substitute Senate Bill 6870, which was enacted by the Legislature and signed into law on March 14, 2006. Leaving Section 204 intact would increase the Board of Pilotage Commissioners' appropriation authority above the intended amount and would exceed the revenue available to the agency. Therefore, I have vetoed Section 204.

Section 212(6), page 18, Department of Licensing - Information Services, Parking Privileges

This proviso funds implementation of Substitute House Bill 2389 and stipulates that the appropriation will lapse if the bill is not enacted. Substitute House Bill 2389 did not pass the Legislature. Therefore, I have vetoed Section 212(6).

Section 213(5), page 19, Department of Licensing - Vehicle Services, Parking Privileges

This proviso funds implementation of Substitute House Bill 2389 and stipulates that the appropriation will lapse if the bill is not enacted. Substitute House Bill 2389 did not pass the Legislature. Therefore, I have vetoed Section 213(5).

Section 214(5), pages 20-21, Department of Licensing, Federal Real ID

Section 214(5) directs the Department of Licensing to join in any lawsuit filed by other states seeking funding to implement the provisions of Title II of P.L. 109-13 (improved security for driver's license and personal identification cards (Federal Real ID Act)) whenever the department is legally and ethically permitted to do so. This language is overly prescriptive. I will engage the federal government on this issue when it is prudent and in the best interest of Washington State to do so. But legal action, whether unilateral or in conjunction with other states, will only be undertaken following a rigorous review of the issues and consultation with the state's Attorney General. Therefore, I have vetoed Section 214(5).

Section 304(16), pages 47-48, Department of Transportation - Improvements, SR 520 Plan

Section 304(16) earmarks $250,000 for the City of Seattle to prepare a State Route 520 expansion impact plan and prohibits the Department of Transportation from beginning construction on the State Route 520 bridge replacement and High Occupancy Vehicle project until agreements have been reached with the City of Seattle. This subsection contradicts Section 304(18), which sets forth the National Environmental Policy Act (NEPA) requirements that the department must designate the preferred alternative, prepare a substantial project mitigation plan, and complete a comprehensive cost estimate. It is incumbent upon the department to follow state and federal environmental laws and not delegate decision making to the City of Seattle. Therefore, I have vetoed Section 304(16).

Section 307(8), page 54, Department of Transportation - Ferries, Auto-Passenger Ferries

Section 307(8) provides funding for auto-passenger ferry vessels using the process identified in Substitute Senate Bill 6853, which did not pass the Legislature. While the Legislature considered the ferry vessel procurement process in Substitute Senate Bill 6853, it was not its intent to eliminate funding for ferry vessels. Therefore, I have vetoed Section 307(8) with the understanding that the funding remains available to the Department of Transportation for the procurement of ferry vessels.

Section 309(19), pages 61-62, Department of Transportation - Local Programs, RTPOs

Section 309(19) requires regional transportation planning organizations (RTPOs) that receive federal surface transportation program funding to distribute funds based on a prioritized competitive basis rather than by formula. It also prohibits funds from being used for administration. While I strongly support this legislative intent, I believe these changes should be phased in over time in order to avoid disruptions to project programming and delivery. RTPOs are required by federal law to prepare four-year Transportation Improvement Programs. The current transportation improvement program covers calendar years 2006 through 2008. Therefore, I have vetoed Section 309(19).

However, effective with the development of the 2008 Transportation Improvement Programs, I am directing the Department of Transportation to work with RTPOs to ensure that it prioritizes project selections based on regional priorities such as growth management, congestion relief, safety, economic development, or other regional priorities that support state and federal policies. In addition, the department shall retain a full and transparent accounting of all federal surface transportation program funds and their uses.

With the exception of the above-noted portions of Sections 204, 212(6), 213(5), 214(5), 304(16), 307(8), and 309(19), Substitute Senate Bill 6241 is approved.

Respectfully submitted,

Christine O. Gregoire
Governor

ESSB 6244
C 316 L 06

Changing provisions relating to oil spill prevention, preparedness, and response.

By Senate Committee on Water, Energy & Environment (originally sponsored by Senators Rockefeller, Morton, Poulsen, Fairley, Kline, Shin, Kohl-Welles and Spanel; by request of Department of Ecology).

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

Background: The primary objective of the Department of Ecology's (DOE) Oil Spill Program is to adopt a zero spills strategy and prevent the release of oil or hazardous substances into marine waters. The oil spill program requires oil spill prevention plans, contingency response plans, and documentation of financial responsibility for vessels and facilities that may discharge oil into navigable waters.

Persons or facilities conducting ship refueling and bunkering, or lightering of petroleum products, must have containment and recovery equipment readily available according to standards adopted by DOE. In addition, any person or facility transferring oil between an onshore or offshore facility and a tank vessel must have containment and recovery equipment readily available. DOE must adopt rules for directing when a boom should be deployed during oil transfers by June 30, 2006.

Owners and operators of onshore and offshore facilities must prepare and submit oil spill contingency and prevention plans. DOE may issue orders or directives to any person who violates the oil spill prevention and response statutes.

DOE's explicit authority to issue regulatory orders to vessel operators for violations of rules was omitted in a 1991 legislative rewrite of the oil pollution prevention statutes.

Summary: DOE is given additional direction regarding its current rulemaking covering transfers of oil. DOE must scale its rules to the risk posed to people and the environment, and categorize the rules by type of transfer, volume of oil, frequency of transfer, and other risk factors it identifies.

DOE may also require a person or facility to provide notice of the time, location, and volume of future intended oil transfers in situations DOE defines as posing a higher risk. Prior notice of an oil transfer is not required for a marine fuel outlet transferring less than 3000 gallons of oil in a single transaction to a ship that is not a covered vessel when scheduled less than four hours in advance. DOE may require semiannual reporting of volumes of oil transferred to ships by a marine fuel outlet.

DOE's authority over ship refueling and bunkering or lightering of petroleum products is expanded to include motor vehicles conducting those activities.

DOE's standards for deployment of containment equipment during oil transfers may require, in addition to alternative measures, additional measures as deemed necessary to enhance safety. These additional measures must be scaled to the risk posed by the oil transfer.

DOE is authorized to conduct inspections of regulated oil transfer operations that occur over state waters. DOE may require vessel contingency plan holders to conduct drills, as they currently require for regulated facilities. DOE's explicit authority to issue regulatory orders to vessel operators for violations of rules is restored.

Votes on Final Passage:

Senate	40	0	
House	98	0	(House amended)
Senate	46	0	(Senate concurred)

Effective: June 7, 2006

SSB 6246
C 317 L 06

Outlining the duties of the lieutenant governor.

By Senate Committee on Government Operations & Elections (originally sponsored by Senators Kastama, Roach, Eide, Pflug and Shin; by request of Lieutenant Governor).

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

Background: The Washington State constitution provides that the executive department is comprised of eight executive officers who are elected statewide. These officers are the Governor, Lieutenant Governor, Secretary of State, Treasurer, Auditor, Attorney General, Superintendent of Public Instruction, and Commissioner of Public Lands.

Each of these officers' general powers and duties is found in a separate chapter of the Revised Code of Washington (Code), except for the Office of Superintendent of Public Instruction, to which a title is devoted, and the Office of Lieutenant Governor, for which there is no chapter or title. Each of the eight executive offices' duties is found in a separate section of Article 3 of the State Constitution.

Summary: A separate chapter, Office of the Lieutenant Governor, is created in the Revised Code of Washington. Existing sections of law that concern the legislative international trade account, the legislative committee on economic development, and the association of Washington generals are removed from their current positions in the Code and placed in the new chapter. The new chapter also includes a list of the boards and committees on which the Lieutenant Governor serves. In addition, the new chapter contains a list of the boards and committees to which the Lieutenant Governor, both in his or her capacity as the Lieutenant Governor and as the President of the Senate, appoints members. The Lieutenant Governor's duties are listed, including his service as the President of the Senate; as the Governor when the Governor is out of state and the Lieutenant Governor's compensation therefor; and as the awarding official for the law enforcement medal of honor when delegated to serve as such by the Governor.

Votes on Final Passage:

Senate	47	0
House	97	1

Effective: June 7, 2006

SSB 6247
C 318 L 06

Providing uniform administration of locally imposed motor vehicle excise taxes.

By Senate Committee on Transportation (originally sponsored by Senators Haugen and Benson).

Senate Committee on Transportation
House Committee on Transportation

Background: Initiative 776 repealed state laws governing how vehicles are valued for purposes of excise taxation. Jurisdictions that currently impose an MVET are obligated through indebtedness to utilize the repealed valuation statutes. Other local jurisdictions with the authority to include the MVET in voter approved, local transportation plans do not have any guidance in state statute for establishing base vehicle valuations or rates of depreciation.

The 2005 transportation budget directed the Joint Transportation Committee (JTC) to study the feasibility of developing a uniform motor vehicle excise tax (MVET) depreciation schedule that more accurately reflects vehicle value yet does not hinder existing debt obligations. The study group considered eleven alternatives and was able to model results for seven of them. Modeling indicated that revenue neutrality and the realignment of values were mutually exclusive for the two jurisdictions that currently levy voter approved MVETs; Sound Transit and the Seattle Monorail. The study group, therefore, encouraged the JTC to consider foregoing the revenue neutrality requirement and instead consider creation of a prospective, uniform valuation and depreciation methodology that more accurately reflects vehicle value.

Summary: A standard administrative structure for the calculation and administration of any future, locally imposed MVET is established.

Base vehicle valuation is defined at 85 percent of Manufacturer's Suggested Retail Prices (MSRP) for all taxable vehicle use classes other than heavy and medium trucks. Discounting MSRP by 15 percent generally equates to the average differential between MSRP and actual purchase price paid on new vehicle sales. Base value for heavy and medium trucks is defined by latest purchase price.

Two new market based, vehicle depreciation schedules are created. One schedule is for use in valuing heavy and medium trucks and based on the average, annual national market depreciation for all vehicles in the class. The other schedule is to be used for all other vehicles and represents average, annual western-region market depreciation for passenger vehicles and light trucks.

Provisions governing the administrative role of county auditors and the department of licensing (DOL)

are also codified including issuance of receipts, refunds, and distribution of revenue to the taxing authority. DOL charges for administration of the tax are capped at 1 percent of tax collections.

Lastly, redundant provisions and provisions rendered obsolete by Initiatives 695 and/or 776 are repealed.

Votes on Final Passage:

Senate	44	0
House	95	0

Effective: June 7, 2006

SB 6248
C 368 L 06

Requiring the department of transportation to reimburse drainage and diking districts for maintenance and repairs to drainage facilities if the department does not respond to written notice by the districts.

By Senators Haugen, Benson, Shin and Sheldon.

Senate Committee on Transportation
House Committee on Transportation

Background: Drainage and diking districts exist around the state as taxing districts and oversight bodies which create, maintain, and manage specific areas that include significant drainage or dike infrastructures. Drainage facilities include dikes, dams, ditches, drains, and outlets. Individual drainage facilities need to be maintained to help ensure viability of the entire drainage system, and those adjacent to roads help protect roads from flooding and other damage.

Under current law, any drainage facilities that are located on land under the jurisdiction of the Department of Transportation (DOT) are required to be maintained by DOT.

Summary: If the commissioners of any drainage or diking district determine that repair or maintenance is required on a drainage facility under the jurisdiction of the DOT, they may send a written notice to DOT requesting that the repair or maintenance be completed. If the specified repair or maintenance is not conducted within fourteen days of DOT receiving the notice, the district commissioners may independently make the repair or complete the maintenance.

The DOT must reimburse the district for all reasonable costs incurred by the district associated with the repair or maintenance.

Votes on Final Passage:

Senate	44	0	
House	97	0	(House amended)
Senate	46	0	(Senate concurred)

Effective: June 7, 2006

ESSB 6255
C 117 L 06

Improving student performance through student-centered planning.

By Senate Committee on Early Learning, K-12 & Higher Education (originally sponsored by Senators Eide and McAuliffe).

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

Background: The Franklin Pierce school district developed a program designed to motivate students for higher performance and provide more academic guidance. During the past two school years (2003-2005), other districts have voluntarily adopted this program. The program is interspersed with all students' regular schedules and provides students with planning skills, career exploration opportunities, and portfolio development. Students lead annual conferences with their parents and a mentor-teacher. At the annual conferences, students explain their past performance and make future plans. The district sets its annual class schedule after students make their course selections.

Summary: The Legislature encourages each middle school, junior high, and high school to implement a comprehensive guidance and planning program. The purpose of the program is to: A comprehensive guidance and planning program is one that contains at least the following components:

1) a curriculum that could include analysis of students' test results; assessments of student interests and aptitudes; diagnostic assessments of students' academic strengths and weaknesses; use of assessment results in developing students' plans; goal setting skills; planning for high school course selection; independent living skills; and postsecondary options and how to access them;
2) regular meetings with a teacher who serves as the student's advisor throughout his or her enrollment at the school;
3) student-led parent-teacher conferences for the purpose of demonstrating the student's accomplishments, identifying weaknesses, planning and course selection, and long-term goal setting; and
4) data collection that allows schools to monitor a student's progress.

Subject to the availability of funds appropriated for this purpose, the Office of the Superintendent of Public Instruction (OSPI) must develop and disseminate the program curriculum to all school districts no later than the beginning of the 2006-07 school year. OSPI must also develop and disseminate electronic student planning

tools and a software package to analyze student performance; develop and disseminate options for diagnostic assessments; conduct regional training seminars for teachers; and monitor program implementation during the fall of 2006 in order to revise the curriculum by the spring of 2007.

OSPI must allocate a first round of implementation grants to 25 schools by September 2006, and a second round to 75 schools by January 2007. The purpose of the grants is to provide time for staff to plan and integrate the program into their schools.

Beginning September 1, 2007, OSPI must make diagnostic assessments available to assist school districts. These assessments, in addition to having other characteristics, should allow student progress to be compared across the country and be readily available to parents. Beginning with the 2006-07 school year, OSPI must reimburse school districts for administering diagnostic assessments in 9th grade for the purpose of identifying academic weaknesses, enhancing student planning and guidance, and developing strategies to assist students before the high school Washington Assessment of Student Learning.

By January 1, 2009, OSPI must report to the Legislature on the programs' impact on student performance.

Votes on Final Passage:

Senate	45	1	
House	94	2	(House amended)
Senate	45	1	(Senate concurred)

Effective: June 7, 2006

SSB 6257
C 173 L 06

Exempting guest services or crowd management employees from the requirements of chapter 18.170 RCW.

By Senate Committee on Labor, Commerce, Research & Development (originally sponsored by Senator Delvin).

Senate Committee on Labor, Commerce, Research & Development
House Committee on Commerce & Labor

Background: A private security guard is an individual who is licensed and principally employed as a security officer or guard, patrol guard, armed escort, armored vehicle guard, burglar response runner, or crowd control officer or guard.

The following persons are exempt from security guard licensing: a person who is employed exclusively or regularly by one employer and performs the duties of a private security guard; a sworn peace officer while engaged in the performance of the officer's official duties; and a sworn peace officer while employed to engage in off-duty employment as a private security guard.

Summary: Guest services or crowd management employees who do not perform the duties of a private security guard are exempt from security guard licensing.

Votes on Final Passage:

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

Effective: June 7, 2006

SB 6264
C 154 L 06

Allowing an injured worker to change total permanent disability pension options under certain circumstances.

By Senators Kohl-Welles, Parlette, Honeyford, Keiser, Prentice, Kline, McAuliffe and Roach; by request of Department of Labor & Industries.

Senate Committee on Labor, Commerce, Research & Development
House Committee on Commerce & Labor

Background: Injured workers who are entitled to a workers' compensation total permanent disability pension can choose from three benefit options:

- Option 1 allows a worker to collect the full amount of pension, with no benefits going to the surviving spouse or family members if the worker dies from causes that are unrelated to his or her industrial injury or occupational disease;
- Option 2 allows a worker to receive an actuarially reduced benefit which upon death is continued throughout the life of and paid to the surviving spouse, child, or other beneficiary; and
- Option 3 allows a worker to receive an actuarially reduced benefit, and upon death, one-half of the reduced benefit is to be continued throughout the life of and paid to the surviving spouse, child, or other beneficiary.

Currently, workers who choose options 2 or 3 do not have the ability to restore their full allowable benefit in the event their designated beneficiary dies or they are divorced from that survivor.

Summary: Workers' compensation total permanent disability pensioners will receive their full monthly benefit if their designated beneficiary dies, or in the case of a designated spouse, they become divorced.

Votes on Final Passage:

Senate	48	0
House	98	0

Effective: June 7, 2006

SB 6280
C 319 L 06

Removing the irrevocable dedication requirement for exemption from property taxes for nonprofit entities.

By Senator Regala.

Senate Committee on Ways & Means
House Committee on Finance

Background: All property in this state is subject to the property tax each year based on the property's value unless a specific exemption is provided by law. The only class of property which is exempt by the State Constitution is that owned by the United States, the State, its counties, school districts, and other municipal corporations, but the State Constitution allows the Legislature to exempt other property from taxation.

Exemptions exist for personal property, public property, private property, and property of nonprofit organizations that is used for specific purposes. The property must be used exclusively for the purpose for which the exemption was granted. In addition, the property must be irrevocably dedicated to the purpose for which the exemption was granted. In other words, upon liquidation, dissolution, or abandonment by a nonprofit organization, the property may not benefit any shareholder or individual except a nonprofit organization that would be entitled to a property tax exemption if it applied for one. This requirement does not apply to leased property.

Summary: The irrevocable dedication requirement for property tax exemption for nonprofit organizations is eliminated.

Votes on Final Passage:

Senate	42	0	
House	98	0	

Effective: June 7, 2006

SSB 6287
C 357 L 06

Authorizing special parking privileges for the legally blind.

By Senate Committee on Transportation (originally sponsored by Senators Fairley, Thibaudeau and Shin).

Senate Committee on Transportation
House Committee on Transportation

Background: The Department of Licensing (DOL) is required to grant special parking privileges to any person that has a disability that limits the ability to walk and meets one of certain criteria. A licensed physician or an advanced nurse practitioner determines whether the applicant meets the criteria.

Summary: Added to the list of criteria qualifying for special parking privileges is being legally blind with limited mobility. Legally blind is defined as someone with no vision or whose vision with corrective lenses is so limited that the individual requires alternative methods or skills to do efficiently those things that are ordinarily done with sight by individuals with normal vision or someone who has an eye condition of a progressive nature which may lead to blindness.

Technical changes are also made to existing language; obsolete language is removed and some language is changed to conform to respectful language requirements.

Votes on Final Passage:

Senate	46	0	
House	98	0	(House amended)
Senate	44	1	(Senate concurred)

Effective: June 7, 2006

SSB 6308
C 267 L 06

Creating a joint legislative task force on offenders programs, sentencing, and supervision.

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Carrell, Stevens, Regala, Schoesler, Schmidt, Oke and Rasmussen).

Senate Committee on Human Services & Corrections
House Committee on Criminal Justice & Corrections

Background: In recent years, Washington legislators have recognized the need to address programs that prepare offenders for successful reentry into society while keeping communities safe. Current laws authorize earned release time for good behavior, as well as mandatory education and work programs for offenders. The Legislature has also directed the Washington State Institute for Public Policy (WSIPP) to conduct several studies on the efficacy of offender programs and policies on reducing recidivism rates.

Evidence-Based Adult Corrections Programs. In January 2006, WSIPP released a report after reviewing 291 evaluations of individual adult corrections programs. WSIPP was able to identify those adult corrections programs that have a demonstrated ability to reduce recidivism rates and those that did not. The report suggests that corrections policy may be shaped to focus resources on effective evidence-based programming and to avoid those that have been identified as ineffective. The final version of WSIPP's report is to be delivered in October 2006 and will present full benefit-cost estimates for each of the programs evaluated.

Options to Stabilize Prison Populations in Washington. Also in January 2006, WSIPP released its interim report in response to the 2005 Legislature's request to identify options that cost-effectively reduce the need for future prison capacity. The report will examine three

broad categories of policy options including sentencing options, prevention programs, and intervention programs. The final report is due in October 2006.

Both of WSIPP reports referenced here are available on the WSIPP website at: http://www.wsipp.wa.gov.

Summary: A joint task force is created to review offender programs, sentencing, and supervision of the offenders upon reentry into the community, with the stated goal of increasing public safety, maximizing rehabilitation of the offenders, and lowering recidivism. The task force must review and make recommendations regarding the type of offender that would most benefit from training and education; the type of education and training that would be most beneficial; changes to the sentencing law and policies that recognize "good time" served; changes to the supervision of offenders once released into the community; and methods for evaluating the effectiveness of these programs.

A report must be presented to the Governor and the appropriate committees of the Legislature by November 15, 2006.

Votes on Final Passage:

Senate	44	0	
House	98	0	(House amended)
Senate	42	0	(Senate concurred)

Effective: June 7, 2006

2SSB 6319
C 128 L 06

Changing provisions for sex offender registration.

By Senate Committee on Ways & Means (originally sponsored by Senators Regala, Brandland, Stevens, Kline, Weinstein, Doumit, Carrell, Keiser, Rockefeller, Berkey, Haugen, Fairley, Spanel, Pflug, Sheldon, Rasmussen, McAuliffe, Shin, Roach and Benton).

Senate Committee on Human Services & Corrections
Senate Committee on Ways & Means
House Committee on Criminal Justice & Corrections
House Committee on Appropriations

Background: In 1990, the Legislature enacted the Community Protection Act, which created one of the first sex offender registration laws in the country. A person convicted of a sex or kidnapping offense must register with the county sheriff of the county in which he or she lives. The person subject to the registration requirements must provide such information as his or her name, address, date and place of birth, place of employment, crime of conviction, date and place of conviction, aliases, Social Security number, photograph, and fingerprints. He or she must also notify the county sheriff if he or she is enrolled in public or private school or in an institution of higher education.

A person subject to the registration requirements, who is either a new Washington resident, or who is a former Washington resident whose crime of conviction was in Washington, must register within 30 days of establishing residence in Washington.

A person who knowingly fails to register or to notify the sheriff, or who changes his or her name without notifying the sheriff or the Washington State Patrol, is guilty of the crime of failure to register.

If the crime requiring registration was a felony, failure to meet the registration requirements is a class C felony. The seriousness of this offense is unranked for purposes of sentencing and may include up to 12 months in jail, a fine of up to $10,000, or both. If the crime requiring registration was a misdemeanor or a gross misdemeanor, failure to register is a gross misdemeanor, punishable by up to 12 months in jail, a fine of $5,000, or both.

Summary: The bill defines the crime of failure to register as non-compliance with any of the requirements of the registration statute, eliminating existing language that defines the crime as failure to register with the county sheriff or changing one's name without notifying law enforcement. It requires the court to impose a term of community custody for failure to register. For sentencing purposes, the crime of failure to register is changed from an unranked felony to a seriousness level II for second and subsequent offenses. When calculating the standard sentencing range for an offender, each prior conviction for failure to register as a sex offender will count as one criminal history point. Other sex offenses will count as three criminal history points each.

Votes on Final Passage:

Senate	47	1	
House	98	0	(House amended)
Senate	43	1	(Senate concurred)

Effective: June 7, 2006
September 1, 2006 (Section 2)

SSB 6320
C 137 L 06

Revising the model policy for disclosure of sex offender information.

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Regala, Brandland, Franklin, Doumit, Rasmussen, Carrell, Haugen, Pridemore, Kline, Stevens, Keiser, Berkey, Thibaudeau, Jacobsen, Pflug, Sheldon, Kohl-Welles, McAuliffe, Roach and Benton).

Senate Committee on Human Services & Corrections
House Committee on Criminal Justice & Corrections
House Committee on Appropriations

Background: In 2005, the Legislature established a task force to review a number of issues in connection with

sex offender placement in communities and community notification and safety. The task force held five public meetings and issued a report to the Legislature and the Governor in December 2005.

The report included a number of recommendations. One such recommendation was that the Criminal Justice Training Commission, the Washington Association of Sheriffs and Police Chiefs (WASPC), the Department of Corrections, the Juvenile Rehabilitation Administration, and the state's juvenile court administrators should collaborate to develop and implement curriculum and training for local law enforcement, community corrections officers, and community members.

Summary: When funded, the WASPC must convene a sex offender model policy work group. The work group must conduct a series of community meetings around state to identify best practices on registration, community notification, and strategies for sex offender management. Certain subject areas must be addressed in the model policy.

The work group's final draft model policy will be presented to the WASPC for adoption or rejection. If adopted, the WASPC must train law enforcement personnel on the new policy, as needed, across the state.

Subject to future funding, the WASPC would be authorized to continue to conduct workshops and training on this subject matter.

Votes on Final Passage:

Senate	46	1
House	98	0

Effective: June 7, 2006

SSB 6323
C 240 L 06

Concerning campaign finance disclosure.

By Senate Committee on Government Operations & Elections (originally sponsored by Senators Regala, Swecker, Kastama and Rasmussen).

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

Background: The campaign finance disclosure laws apply to all election campaigns except those for precinct committee officer, for federal elective office and for an office of a political subdivision that does not encompass a whole county and that contains fewer than 5,000 registered voters.

Another exemption to the reporting provisions applies to candidates, elected officials and agencies in political subdivisions with less than 1,000 registered voters. This exemption also includes the political committees formed to support or oppose candidates or ballot propositions and persons making independent expenditures concerning those ballot propositions in political subdivisions with less than 1000 registered voters.

These exemptions must be reversed by order of the PDC upon its receipt of a valid petition of 15 percent of the registered voters or upon the commission's finding that the governing body of the political subdivision submitted a valid petition to the commission.

Summary: Campaign finance reporting is required of candidates for any political subdivision if the candidate receives $5,000 or more in contributions.

Votes on Final Passage:

Senate	39	3	
House	97	1	(House amended)
Senate	44	2	(Senate concurred)

Effective: June 7, 2006

SSB 6325
C 131 L 06

Establishing residence restrictions for sex offenders.

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Regala, Kline, Fairley, Stevens, Rasmussen and McAuliffe).

Senate Committee on Human Services & Corrections
House Committee on Criminal Justice & Corrections

Background: Legislation passed in 2005 prohibits an offender sentenced to a "two-strikes" offense against a minor victim from living within an area of 880 feet (two blocks) of a public or private school. The residential restriction set out in the 2005 law was to be effective for the duration of the offender's term of community custody.

The 2005 legislation, including the residential restriction, terminates on July 1, 2006.

Summary: The sunset clause on SHB 1147, which established residential restrictions for certain convicted sex offenders, is repealed. The state's preemption of local governments' laws restricting where sex offenders can live applies to laws restricting the residency of persons convicted of any sex offense at any time, except that the preemption does not apply to any local laws adopted before March 1, 2006. The Association of Washington Cities (AWC) must develop statewide consensus standards that local governments use when determining whether to impose local residency restrictions on sex offenders within cities and towns. If the AWC presents these standards to the Legislature and the Governor by December 31, 2007, the preemption provisions expire on July 1, 2008, and may only be revived by an affirmative act of the Legislature through duly enacted legislation. If the AWC does not present its standards to the Legislature and the Governor by that date, the preemption provisions stay in place.

Votes on Final Passage:

Senate	46	2	
House	97	1	(House amended)
Senate			(Senate refused to concur)
House	98	0	(House amended)
Senate	45	0	(Senate concurred)

Effective: June 7, 2006

2SSB 6326
C 112 L 06

Providing a source of funding for customized work force training.

By Senate Committee on Ways & Means (originally sponsored by Senators Shin, Rasmussen, Pflug, Doumit, Rockefeller, Weinstein, Pridemore, Hewitt, Jacobsen, Thibaudeau, Swecker, Sheldon, Oke, Keiser, Kohl-Welles, Franklin, Kline and Berkey).

Senate Committee on International Trade & Economic Development
Senate Committee on Ways & Means
House Committee on Higher Education & Workforce Education
House Committee on Appropriations

Background: The Washington Competitiveness Council has recommended the acceleration of worker training in high-demand fields for new workers, incumbent workers, and displaced workers. The council advocates an increase in capacity to provide customized training for business recruitment or expansion. The state's Job Skills Program is a customized training program that matches employer investments in on-the-job training but it is among the smallest customized training programs in the nation.

Summary: The Washington Customized Employment Workforce Training program is created for employers locating or expanding in the state. The State Board for Community and Technical Colleges (SBCTC) is to administer the program. Training allowances are awarded to employers who have entered into training agreements with colleges in the state. Preference in granting training allowances is given to employers with fewer than 50 employees.

The Employment Training Finance Account is created and funds in the account are solely for the SBCTC to provide training allowances. At the completion of training, employers are required to pay one quarter of the cost of the training into the account. The additional three quarters of the cost are to be paid into the account over the following 18 months. A business and occupation tax credit is provided to employers for half of the amount that they pay into the account for employee training.

Employers are to increase their employment in the state by an amount equal to at least 75 percent of the trainees in their training program.

A participating employer who takes the tax credit must file a survey with the Department of Revenue with employment information. The Department of Revenue is to report to the Legislature in December 2011 regarding job creation and related information. The program expires on July 1, 2012

Votes on Final Passage:

Senate	48	0	
House	63	32	(House amended)
Senate	47	1	(Senate concurred)

Effective: June 7, 2006

SSB 6330
FULL VETO

Evaluating funding alternatives for an international trade corps fellowship program.

By Senate Committee on International Trade & Economic Development (originally sponsored by Senators Shin, Kastama, Sheldon, Rasmussen, Doumit, Weinstein, Fraser, Swecker, McAuliffe, Oke, Eide, Honeyford, Franklin, Mulliken, Prentice, Pflug, Kohl-Welles, Jacobsen and Roach).

Senate Committee on International Trade & Economic Development
Senate Committee on Ways & Means
House Committee on Economic Development, Agriculture & Trade
House Committee on Appropriations

Background: The Department of Community, Trade, and Economic Development (CTED) is responsible for establishing and operating foreign offices promoting overseas trade and commerce. The department currently has overseas offices in China, Germany, Japan, Mexico, South Korea, and Taiwan. The department does not have a program which places college and graduate students in its overseas offices.

Summary: To promote international trade and enhance the work of Washington's international trade offices, the Legislature finds that college and graduate students should be provided an opportunity to gain experience in international trade.

CTED is to research alternative funding sources for an international trade corps fellowship program and make recommendations to the Legislature regarding starting and operating a program without the use of general fund monies.

Votes on Final Passage:

Senate	47	0	
House	65	33	(House amended)
Senate			(Senate refused to concur)
House			(House insists on position)
Senate	44	2	(Senate concurred)

VETO MESSAGE ON SSB 6330

March 31, 2006

To the Honorable President and Members,
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning herewith, without my approval, Substitute Senate Bill No. 6330 entitled:

"AN ACT Relating to the establishment of the Washington trade corps fellowship program."

This bill is being vetoed for two reasons. First, given the limited resources and high demands of our international trade office, this program would not be a priority. I commend the Legislature for adding resources to trade and to trade offices. However, the specific purpose proposed in this bill is not the most effective approach. Second, the budget for this project is exceptionally large given the task that is proposed. These are funds that simply should not be allocated for studying funding opportunities.

For these reasons, I have vetoed Substitute Senate Bill No. 6330 in its entirety.

Respectfully submitted,

Christine O. Gregoire
Governor

SB 6338
C 62 L 06

Regarding the property tax exemption for seniors and for persons retired due to disability.

By Senators Haugen, Oke, Berkey, Swecker, Eide, Mulliken, Spanel, Kline, Rasmussen, McAuliffe, Shin and Fairley.

Senate Committee on Ways & Means
House Committee on Finance

Background: Persons are allowed to defer payment of their property taxes on their personal residence if they are 60 years of age or older or retired because of physical disability and their disposable income is $40,000 or less. The deferral generally applies to taxes on one acre of land but is increased to up to five acres of land if zoning requires this larger parcel size.

In addition to the deferral, a person who is at least 61 years of age in the year of application, retired due to disability, or a veteran of the armed forces of the United States with 100 percent service connected disability is entitled to both a freeze on the value and a partial property tax exemption on the person's personal residence if disposable income is $35,000 or less. The valuation limit and exemption apply to the residence and up to one acre of land on which it is situated.

Summary: The one-acre limitation on residential property eligible for the senior citizen property tax exemption program is increased to five acres of land if zoning requires this larger parcel size. The bill applies to taxes levied for collection in 2007 and thereafter.

Votes on Final Passage:

Senate	46	0
House	98	0

Effective: June 7, 2006

SSB 6359
C 47 L 06

Ensuring employers do not evade their contribution rate.

By Senate Committee on Labor, Commerce, Research & Development (originally sponsored by Senators Kohl-Welles, Parlette and Kline; by request of Employment Security Department).

Senate Committee on Labor, Commerce, Research & Development
House Committee on Commerce & Labor

Background: The unemployment insurance system is a federal/state program under which employers pay contributions to fund unemployment compensation for unemployed workers. These payments are made under the State Unemployment Tax Act (SUTA) and the Federal Unemployment Tax Act (FUTA). The FUTA allows the states' employers to receive a tax credit against their federal unemployment tax, and the state receives a share of the FUTA revenues for administration of its unemployment insurance system, only if the state maintains an unemployment insurance system in conformity with federal law. Washington's program is administered by the Employment Security Department (ESD).

In August 2004, the federal "SUTA Dumping Prevention Act of 2004" (SUTA Dumping Act) was enacted. According to the United States Department of Labor, this law is intended to: (1) address a concern that some employers and financial advisors were finding ways to manipulate state experience rating systems so that these employers could pay lower SUTA taxes than their unemployment experience would otherwise allow; and (2) prohibit the following two methods of SUTA dumping: (a) an employer escapes high experience rates by setting up a shell company with a lower tax rate and then transferring some or all of its workforce to the shell company; or (b) an entity starting business purchases an existing business with a tax rate that is lower than the new business tax rate. Typically, the new business ceases the business activity of the transferred business.

Under the SUTA Dumping Act, the states' unemployment insurance laws must be certified as in confor-

mity with the SUTA dumping requirements by a certain date. For Washington, this requirement will apply beginning with the 2006 tax rate year. Among other things, the federal SUTA Dumping Act requires the states' unemployment insurance laws to: (1) require mandatory transfer of experience when there is substantial common ownership, management, or control of two employers, and one of these employers transfers all or part its business to the other; (2) prohibit transfers of experience, and instead assign a new employer rate, when a person who is not an employer acquires an existing employer, and the acquisition was solely or primarily for the purpose of obtaining a lower contribution rate; (3) adopt meaningful civil and criminal penalties for persons who knowingly violate or attempt to violate these requirements; and (4) establish procedures for identifying SUTA dumping.

Most employment in the state is covered for unemployment insurance. Each covered employer is required to pay contributions on a percentage of his or her taxable payroll, except for certain employers who reimburse the ESD for benefits the agency pays to these employers' former workers. Covered employment includes personal services performed for a third party under a contract with a temporary services agency, employee leasing agency, or other similar entity. If the entity is responsible for paying wages to the employees, then that employment is deemed to be employment for the entity.

For most covered taxable employers, unemployment insurance contribution rates are determined by the combined rate assigned to the employer based on layoff experience, social costs, and solvency surcharge, if any. The highest contribution rate varies but may not exceed 6.5 percent plus a solvency surcharge, if any.

Some covered taxable employers are not qualified to be assigned a combined rate. These unqualified employers include employers who are new employers and certain successor employers who were not employers at the time of acquiring a business. Until a new employer becomes a qualified employer, the rate is the average industry rate, plus 15 percent of that amount, with a 1 percent minimum rate. For a successor employer who was not an employer at the time of the business transfer, the rate is the rate assigned to the predecessor new employer rate in that industry.

Legislation adopted in 2003 changed the rate determination for certain successor employers engaging in a business transfer on or after January 1, 2005. If a new successor employer has substantial continuity of ownership or management of the predecessor's business, the successor is not permitted to use the new employer rate. Instead, these employers must pay at the rate assigned to the predecessor employer, and will have the experience of the predecessor employer transferred to the successor as part of its rate beginning in January following the transfer.

The 2003 legislation added a penalty for an employer that is delinquent in paying unemployment taxes because of an intent to evade the successorship requirements and for any business that promotes such evasion. This penalty was modified in 2004 to require assigning these employers, or other persons violating this requirement, the highest contribution rate, plus 2 percent, for that calendar year in which the Commissioner makes the penalty determination.

It is a gross misdemeanor, with a fine of up to $5,000 and/or up to one year in prison, if a person who is required to collect and pay unemployment contributions willfully fails to pay the contributions or wilfully attempts to evade payment.

Summary: If ESD determines that a significant purpose of transferring a business was to obtain a reduced array calculation factor rate, then one of two actions may occur: (1) if the successor was an employer at the time the transfer occurred, then the experience rating accounts of all employers are combined into a single account and the employers are assigned the higher of the predecessor or successor array calculation factor rate which takes effect the date of the transfer; or (2) if the successor is not an employer at the time the transfer occurs, then the experience rating account of the acquired business cannot be transferred to the successor and, instead, a new employer rate is assigned.

If ESD assesses a delinquency against an employer, and the delinquency or a part of it is due to an intent to knowingly evade the successorship provisions, then for the rate year in which the Commissioner assesses the delinquency and for the following three rate years, the Commissioner must assign to the employer and to any business knowingly promoting the evasion of successorship provisions, a civil penalty assessment rate in addition to the assigned rate that increases the array calculation factor rate for that rate year to the maximum plus 2 percent, which total rate is not limited by any maximum array calculation factor rate.

The employer may also be criminally prosecuted. An employer subject to the civil penalty assessment must also pay the reasonable costs of auditing the employer's books and collecting the penalty.

A person, not an employer, who knowingly evades, knowingly attempts to evade, or knowingly promotes the evasion of the successorship provisions is subject to a civil penalty of $5000 per occurrence. The person must also pay the reasonable costs of auditing the employer's books and collecting the penalty.

Beginning January 1 after the transfer occurs, the successor's contribution rate for each rate year will be based on an array calculation factor rate that combines the successor's experience with payrolls and benefits and any experience assigned to the predecessor involved in the transfer. If only a portion of the business was transferred, then the experience attributable to the acquired portion is assigned to the successor if the successor is a

"qualified employer," by including the transferred experience. If the successor is not a "qualified employer" the contribution rate will equal the sum of rates determined by the Commissioner as well as the transferred experience.

Beginning January 1 after the transfer occurs, the predecessor's contribution rate or the array calculation factor rate must be based on its experience with payrolls and benefits excluding the experience of the transferred business or portion of the business transferred.

Votes on Final Passage:

Senate	44	0
House	98	0

Effective: January 1, 2006

SSB 6362

C 320 L 06

Modifying voter registration provisions.

By Senate Committee on Government Operations & Elections (originally sponsored by Senators Kohl-Welles, Keiser, Jacobsen and Kline).

Senate Committee on Government Operations & Elections

House Committee on State Government Operations & Accountability

Background: Registration of a person as a voter is presumptive evidence of his or her right to vote. Any registered voter may request that the registration of another voter be canceled if he or she believes that the voter does not meet the requirements of the constitution or that the voter no longer maintains a legal voting residence at the address shown on his or her registration record. The challenger must file a signed affidavit, subject to the penalties of perjury, that to his or her personal knowledge and belief another registered voter does not actually reside at the address as given on his or her registration record or is otherwise not a qualified voter. The person filing the challenge must furnish the address at which the challenged voter actually resides.

Challenges initiated by a registered voter must be filed no later than the day before the election. A challenged voter may properly transfer or re-register until three days before the election. The county auditor must provide notice to the challenged voter and inform the voter that he or she will be issued a challenged ballot. The canvassing board must meet to rule on challenged ballots, and the challenging party must prove that the challenged voter's registration is improper by clear and convincing evidence. The challenged voter has the opportunity to present testimony and evidence to the canvassing board. Challenged ballots must be resolved by the time of certification.

If the challenged voter does not vote, or if the challenge is made thirty or more days before the election, the county auditor must hold a hearing at which time both parties may present their arguments. The county auditor must then rule as to the validity of the challenged registration. The qualifications of any absentee voter may be challenged at the time the signature on the return envelope is verified and the ballot is processed by the canvassing board.

A voter who has a nontraditional address is registered at the county courthouse or other public building near the area the voter considers his or her residence.

Summary: The auditor is required to publish voter challenges on the auditor's web-page within 72 hours of receipt. The auditor must notify any person who requests to receive notification of challenges immediately after publication. Any person, upon request, may receive copies of all materials provided to the challenged voter by the county auditor.

Challenges initiated by a registered voter against a voter who registered to vote less than 60 days before the election, or who changed residence less than 60 days before the election and didn't transfer his or her registration, must be filed no later than ten days before the election, or within ten days of the voter being added to the registration database, whichever is later. Challenges initiated by a registered voter against all other voters must be filed no later than 45 days before the election. A challenged voter may transfer or re-register until the day before the election.

A voter challenge must be based on personal knowledge, having exercised due diligence to personally verify the evidence that: the voter has been convicted of a felony and civil rights have not been restored; the voter has been declared mentally incompetent by a judge; the voter does not live at the residential address provided on his or her registration; the voter is or will not be 18 by the election; or the voter is not a citizen. Challenges based on a felony conviction discovered by the county auditor or Secretary of State are resolved under a different statute.

If the challenge is based on an allegation that the voter does not live at the address provided, the challenger must provide the voter's actual residence, or submit evidence that the challenger exercised due diligence to verify that the challenged voter does not reside at the address provided. The bill specifies the minimum actions necessary for a challenger to establish that he or she exercised due diligence, including obtaining a signed affidavit from a person who owns, manages, resides, or is employed at the address as listed on the registration form.

The challenger must provide the factual basis for the challenge and may not base the challenge on unsupported allegations or allegations by anonymous third parties. A challenge may be dismissed by the auditor if it is not in proper form or is incomplete on its face. A challenge may be prepared using an official electronic chal-

lenge form template provided by the auditor or the Secretary of State. The form must be printed and signed by the challenger.

If the challenge is filed before the ballot has been received, the ballot must be treated as a challenged ballot. If the challenge is filed after the ballot has been received, the challenge cannot affect the current election. If the challenge is filed at least 45 days before the election, the county auditor presides over the hearing. If the challenge is filed less than 45 days before the election, the canvassing board presides over the hearing.

The auditor must provide notice by certified mail of the challenge to the challenged voter, and if the challenge is based on the residential address, the auditor must give notice of exceptions to the residency requirement allowed by the constitution and statute (nontraditional address and excused absence from the state due to military service, college, prison, and navigation of high seas).

If the challenger fails to prove by clear and convincing evidence that the registration is improper, the challenge must be dismissed and the ballot must be counted. If the challenge is based on residency and the canvassing board sustains the challenge, then the challenged voter must be permitted to correct his or her registration and any races or measures on the challenged ballot that the voter would have been qualified to vote for had his or her registration been correct must be counted.

A residential address may be a "traditional address" or a "non-traditional address." Either way, the residential address must identify the actual physical residence of the voter with sufficient detail to allow the voter to be assigned to the proper precinct and to be located to confirm his or her residence. Voters with a non-traditional address are no longer permitted to use the address of a county courthouse, city hall, or other public building as his or her address for voter registration purposes. A voter without a traditional address must provide a valid mailing address and meet the 30 day residence requirement in Article VI, section 1 of the state Constitution.

Votes on Final Passage:

Senate	40	5	
House	94	4	(House amended)
Senate			(Senate concurred in part; refused to concur in part)
House	98	0	(House amended)
Senate	47	1	(Senate concurred)

Effective: June 7, 2006

SB 6364
C 140 L 06

Prohibiting certain activities on motor driven boats and vessels.

By Senators Roach, Rasmussen, Kastama, Haugen and Kline.

Senate Committee on Natural Resources, Ocean & Recreation
House Committee on Appropriations
House Committee on Natural Resources, Ecology & Parks

Background: Teak surfing, also known as bodysurfing, is a boating activity in which an individual enters the water and grips the swim platform of a motorized vessel. As the vessel moves through the water at low speeds, it produces a trailing wave just behind the boat. The person holding onto the swim platform can then let go and body surf this trailing wave, which will carry that person along behind the boat.

The United State Coast Guard has stated that because teak surfing takes place so near a boat's motor, teak surfers are exposed to elevated carbon monoxide levels from vessel exhaust. The National Institute for Occupational Safety and Health has found deaths resulting from as little as one to two minutes of teak surfing related carbon monoxide exposure. Teak surfing is also dangerous, according to the Coast Guard, because it occurs so near a boat's propeller and because participants do not wear life jackets while teak surfing.

Recently, jurisdictions, including Oregon and California, have prohibited teak surfing.

Summary: The operation of a motor boat or vessel while an individual is teak surfing, platform dragging, or bodysurfing behind the boat or vessel is prohibited.

The operation of a motor boat or vessel while an individual is occupying or holding onto a swim platform, step, or ladder is also prohibited. This provision does not apply in certain limited circumstances, such as when an individual occupies a swim platform to assist with docking or departing.

The terms teak surfing, platform dragging, and bodysurfing are defined. A violation of these provisions is a natural resources infraction, punishable by a fine not to exceed $100.

Any new or used motor driven boat or vessel sold within the state must display a carbon monoxide warning sticker developed or approved by the Department of Licensing (Department). Additionally, the Department must include an informational brochure about the dangers of carbon monoxide poisoning and vessels, as well as the warning stickers developed by the Department, with vessel registration materials mailed when registrations are due or become due for two years after the effective date of the provision. After two years, such

materials may be included upon recommendation by the Director of the Department.

Current statutory language directing the State Parks and Recreation Commission to include the hazards of carbon monoxide in its recreational boating fire prevention educational program is removed.

The act is titled the Jenda Jones and Denise Colbert Safe Boating Act.

Votes on Final Passage:

Senate	45	0	
House	97	1	(House amended)
Senate	44	0	(Senate concurred)

Effective: June 7, 2006
January 1, 2007 (Sections 2 and 3)

SSB 6365
C 358 L 06

Changing fees in the weights and measures program.

By Senate Committee on Agriculture & Rural Economic Development (originally sponsored by Senators Rasmussen, Schoesler, Jacobsen, Fraser and Shin; by request of Department of Agriculture).

Senate Committee on Agriculture & Rural Economic Development
House Committee on Economic Development, Agriculture & Trade

Background: The Weights and Measures Program regulates the use and accuracy of all commercial weighing and measuring devices in the state except in Seattle and Spokane. These include gas pumps, grocery store scales, truck scales, home heating oil truck meters, liquid gas meters, and taximeters. The program consists of device inspections, fuel quality monitoring, price verification inspections, package inspection, and investigation of complaints. This program is administered by the Department of Agriculture.

Seattle and Spokane each have their own programs for their respective jurisdictions. Those programs include most, but not all, of the inspections conducted by the department.

Device registration fees were established in 1995 as the mechanism to fund the administration of these programs. Prior to 1995, the cost was funded from the state general fund.

Summary: The registration fee for numerous devices and the license fees for weighers, weigh-masters, and service agents are increased. The increase in fees are phased-in over a two year period by equal amounts with the first half taking affect on July 1, 2006 and the second half taking affect on July 1, 2007.

The department is to convene its weights and measures advisory committee on a quarterly basis and is to report to the Legislature in December 2006 and in December 2007.

Votes on Final Passage:

Senate	38	9	
House	97	1	(House amended)
Senate	41	7	(Senate concurred)

Effective: July 1, 2006
July 1, 2007 (Section 2)

ESSB 6366
C 63 L 06

Concerning preparation and response to pandemic influenza.

By Senate Committee on Ways & Means (originally sponsored by Senators Keiser, Thibaudeau and Kline).

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

Background: Pandemic influenza is a global outbreak of disease that occurs when a new virus appears in the human population, causes serious illness, and spreads easily from person to person. According to the World Health Organization, the current risk of pandemic is great and is likely to persist. It could emerge with little warning, and lead to substantial human and economic loss. There is concern that Washington State is not sufficiently prepared to respond if a pandemic were to occur.

Summary: To the extent state or federal funds are provided for this purpose, by November 1, 2006, each local health jurisdiction in the state must develop a pandemic flu preparedness and response plan consistent with the requirements and performance standards established by the state Department of Health (DOH) and the United States Department of Health and Human Services. Each plan is to be based on an initial assessment by the local health jurisdiction of its existing response capacity, and is to be developed in consultation with appropriate public and private sector partners. At a minimum, a plan must prioritize and address a list of issues enumerated in the bill, including public education, disease surveillance, communication systems, vaccination protocols, and strategies to maintain health care and other essential community services.

DOH will provide technical assistance and distribute funds, based on a predetermined formula, to support local health jurisdictions in developing their plans. Upon receipt of a plan meeting its established requirements and standards, DOH will provide additional funds and assistance to support implementation of the identified preparedness and response activities. At least biannually, DOH is to assess the compliance of each local juris-

diction with its requirements and standards for pandemic flu preparedness.

Votes on Final Passage:

Senate	47	0	
House	98	0	(House amended)
Senate			(Senate refused to concur)
House	98	0	(House amended)
Senate	44	0	(Senate concurred)

Effective: June 7, 2006

SB 6368
C 241 L 06

Discontinuing the nursing facility bed tax.

By Senators Haugen, Benson, Kline, Kohl-Welles, Keiser, Carrell and Fairley.

Senate Committee on Ways & Means

Background: In 2003, the state levied a new tax of $6.50 per patient day of care on nursing homes. In the 2005 session, the Legislature provided for a phased elimination of the tax over six years. The tax rate was reduced to $5.25 per patient day during the 2005-07 biennium; to $3.00 per patient day during the 2007-09 biennium; and to $1.50 per day during the 2009-11 biennium. Under current law, the tax will no longer be imposed after July 1, 2011.

The tax will generate approximately $21 million of net revenue for the State General Fund in 2007-09, after accounting for the portion of the tax for which facilities are reimbursed in their Medicaid payment rate.

Summary: The additional tax on nursing facilities is repealed effective July 1, 2007.

Votes on Final Passage:

Senate	45	0
House	96	1

Effective: July 1, 2007

SSB 6369
FULL VETO

Providing excise tax exemptions for water services provided by small water systems.

By Senate Committee on Ways & Means (originally sponsored by Senators Haugen, Mulliken and Rasmussen).

Senate Committee on Ways & Means
House Committee on Finance

Background: Public and privately-owned utilities, including water distribution businesses, are subject to the state public utility tax (PUT). The PUT is applied to the gross receipts of the business. For water distribution businesses, the applicable tax rate is 5.029 percent. Water distribution revenues are deposited as follows: 81.3 percent to the general fund and 18.7 percent to the public works assistance account.

The business and occupation (B&O) tax is Washington State's major business tax. The tax is imposed on the gross receipts of business activities conducted within the state. Revenues are deposited to the state general fund. A business may have more than one B&O tax rate, depending on the types of activities conducted. Firms that provide services are generally taxed at a rate of 1.5 percent.

Neither the PUT nor the B&O tax permits deductions for the costs of doing business, such as payments for raw materials and wages of employees. Nonetheless, a number of exemptions, credits, deductions, and other preferences have been enacted for specific types of business activities under the PUT and B&O tax statutes. For example, an exemption exists for public utilities for which the gross income is $2,000 per month or less. Many small water systems qualify for this exemption.

In 1997, the Legislature enacted legislation that exempted certain businesses from paying public utility and B&O taxes on amounts received for water services. The legislation, which was further amended in 1998, applied to:

1) Water-sewer districts and irrigation districts that:
   a) serve fewer than 1,500 connections, and
   b) charge a residential water rate exceeding 125 percent of the average statewide water rate; and
2) Water systems owned or operated by a satellite system management agency that:
   a) serve fewer than 200 connections, and
   b) charge a residential water rate exceeding 125 percent of the average statewide water rate.

A water system or irrigation district claiming one of these tax exemptions was required to supply proof to the Department of Revenue (DOR) that at least 90 percent of the value of the tax exemptions would be used to repair, equip, upgrade, or maintain the system. The tax exemptions expired on July 1, 2004.

Summary: A public utility tax and B&O tax exemption is provided for:

1) Water-sewer districts, public utility districts, and irrigation districts that:
   a) serve fewer than 1,500 connections, and
   b) charge a residential water rate exceeding 125 percent of the average statewide water rate; and
2) Water systems owned or operated by a satellite system management agency that:
   a) serve fewer than 200 connections, and
   b) charge a residential water rate exceeding 125 percent of the average statewide water rate.

A water system or irrigation district claiming one of these tax exemptions was required to supply proof to the DOR that at least 90 percent of the value of the tax

exemptions would be used to repair, equip, upgrade, or maintain the system.

Goals are provided for the exemption program: to provide assistance to small public water systems that are most in need in order to make necessary repairs, and to allow these systems to comply with state and federal mandates associated with clean drinking water.

Water services providers that participate in the exemption program are required to submit a report to DOR annually. The report must detail the specific capital improvements that were made using the tax savings attributable to the exemptions. The report content is not subject to confidentiality requirements and may be disclosed to the public. During any year, if a business fails to submit a report, all tax savings attributable to the exemptions for the year are due.

The fiscal committees of the Legislature are required to report to the Legislature on the effectiveness of the exemptions by December 2010.

Votes on Final Passage:

Senate	45	0
House	96	1

VETO MESSAGE ON SSB 6369

March 29, 2006

To the Honorable President and Members,
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning, without my approval, Substitute Senate Bill No. 6369 entitled:

"AN ACT Relating to excise tax exemptions for water services provided by small water systems."

This SSB No. 6369 exempts water-sewer, irrigation, and public utility districts that provide water services to small customer bases from the public utility tax and business and occupation tax as long as at least 90 percent of the value of the tax exemptions would be used to repair, equip, upgrade, or maintain the system.

This bill provides inadequate accountability to the state's taxpayers. The tax exemptions are not limited by sunsets. Only one study of the effectiveness of the tax exemptions, due in 2010, will be made. After that, the tax exemptions will continue on in perpetuity without scrutiny.

In addition, the legislation's self-stated goal, of providing assistance to small public water systems that are in most need, would be more efficiently met through a grant program. Through a grant program, pressing needs can be met first and all needs can actually be assessed. A grant program could also help those small water systems that are already exempt from the state's business and occupation tax and public utility tax as well. As Governor, I think part of my duty is to meet the needs in the most efficient way possible.

For these reasons, I have vetoed Substitute Senate Bill No. 6369 in its entirety.

Respectfully submitted,

Christine O. Gregoire
Governor

SB 6371
C 155 L 06

Regulating the disposal of dead animals.

By Senators Rasmussen, Schoesler, Shin, Jacobsen and Sheldon; by request of Department of Agriculture.

Senate Committee on Agriculture & Rural Economic Development
House Committee on Economic Development, Agriculture & Trade

Background: The Washington Department of Agriculture (WSDA) Animal Health Program is charged with preventing the introduction or spreading of harmful animal diseases. The program monitors animal movement across state lines, conducts tests and inspections, and undertakes emergency management planning. Along with other state and local agencies, it has responsibilities concerning disposal of dead animals.

Currently, animals dead from disease must be immediately buried at least three feet deep. Any animal found dead is presumed to have died from disease. Dead animals that did not die from disease may be sent to a rendering plant.

It is suggested that these requirements are too restrictive and do not provide appropriate options for disposal of dead livestock.

Summary: Dead animal disposal provisions are narrowed to apply only to "livestock," including horses, mules, donkeys, cattle, bison, sheep, goats, swine, rabbits, llamas, alpacas, ratites, poultry, waterfowl, and game birds. "Livestock" does not include most free ranging wildlife.

WSDA is granted rulemaking authority to prescribe the time frame and methods of disposal of livestock that die from disease. Disposal methods may include burial, composting, incinerating, landfilling, and natural decomposition or rendering.

Only livestock found dead from an unknown cause are presumed to have died from disease.

Votes on Final Passage:

Senate	46	0
House	97	0

Effective: June 7, 2006

SB 6373
C 64 L 06

Removing expiration of reporting to the legislature of holding a boarding home medicaid eligible resident's room or unit.

By Senators Keiser, Deccio, Zarelli and Spanel.

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

Background: Under existing law, boarding homes contracting to provide adult residential care (ARC), enhanced adult residential care (EARC), or assisted living (AL) services must hold a medicaid resident's bed or unit up to twenty days when short term care is needed in a nursing home or hospital, the resident is likely to return to the boarding home, and the Department of Social and Health Services pays the boarding home to hold the bed or unit.

During the first seven days of a resident's absence, the per day bed or unit hold compensation is seventy percent of the daily rate paid. The rate for the eighth through twentieth day is established by rule but cannot be less than ten dollars per day.

The boarding home may seek third party payment to hold a bed or unit from the twenty-first day onward. The third-party payment cannot exceed the medicaid daily rate paid to the facility for the resident.

The current bed hold policy is set to expire on June 30, 2006.

Summary: The expiration date of the current bed hold policy is removed. DSHS is no longer required to submit a report to the Legislature. The report was submitted on or before December 31, 2005.

Votes on Final Passage:

Senate	40	0	
House	97	0	(House amended)
Senate	44	0	(Senate concurred)

Effective: June 7, 2006

ESB 6376
C 156 L 06

Changing livestock inspection fee provisions.

By Senators Rasmussen, Honeyford, Jacobsen, Shin, Morton and Delvin.

Senate Committee on Agriculture & Rural Economic Development
House Committee on Economic Development, Agriculture & Trade

Background: Historically, the livestock identification program involves inspection of livestock at mandatory inspection points to verify ownership. This information is now also being used to trace the movement of livestock for animal health related investigations. This program is funded by fees.

The Livestock Identification Advisory Board is composed of representatives of major segments of the livestock industry. This board advises the Director of Agriculture regarding the administration of the program and related inspection and licensing fees.

The livestock industry is engaged in the development of the National Animal Identification System to be able to conduct a trace-back of diseased livestock within 48 hours of discovery.

Summary: The current inspection fee of 85 cents per head is increased to $1.60, or time and mileage, whichever is greater, for cattle that are not branded or otherwise identified in conformance with the department's rules. This fee also applies to cattle whose change of ownership is documented through the use of a self-inspection certificate.

For cattle that are identified in conformance with the department's rules, the fee is $1.10, or time and mileage, whichever is greater. This fee does not apply to inspection of cattle when documenting a change of ownership with a self-inspection certificate.

The fee for inspection of cattle at a federally inspected processing plant with a daily capacity of less than 500 head is $4 per head. The option to charge time and mileage does not apply to this category, nor does the minimum $5 fee for issuance of an inspection certificate.

The per head audit fee for feed lots is increased from 17 cents to 25 cents. The maximum number of head of cattle whose sale may be documented through self-inspection certificates is increased from 15 to 25 head.

Votes on Final Passage:

Senate	46	0
House	96	1

Effective: June 1, 2006

SSB 6377
C 157 L 06

Changing the regulation of milk and milk products.

By Senate Committee on Agriculture & Rural Economic Development (originally sponsored by Senators Doumit, Rasmussen, Schoesler, Swecker, Morton, Zarelli, Shin and Pflug).

Senate Committee on Agriculture & Rural Economic Development
House Committee on Economic Development, Agriculture & Trade

Background: Raw milk has received increased attention as a result of recent media reports alleging that persons have become sick from consuming uninspected raw milk from an unlicensed dairy. An investigation of the incident has been conducted by local and state health agencies.

There are a number of specific laws and agency rules that specifically include regulation of raw milk. For example, the Department of Agriculture is authorized to adopt rules pertaining to non-pasturized raw milk; raw milk is to be cooled to 40 degrees within two hours of milking, and the sampling frequency and health standards for raw milk are established.

The administrative code requires raw milk contain-

ers to contain a warning label that states:*"WARNING: This product has not been pasteurized and may contain harmful bacteria. Pregnant women, children, the elderly and persons with lowered resistance to disease have the highest risk of harm from the use of this product."*

Currently, several small dairies that provide raw milk to others through cow-share agreements are licensed and inspected on a regular basis. However, due to this incident, a review has been initiated relating to uninspected milk provided by unlicensed operators to consumers who receive raw milk through cow-share agreements.

Summary: The state milk quality laws apply to raw milk and arrangements known as "cow shares." It is not the intent to prohibit either the sale of raw milk or cow share arrangements.

Authority is provided to the department to have access to a dairy farm that is not licensed if the director has information that the dairy farm is engaged in an activity that requires a license. If denied access to the dairy farm, the department may apply to the court for a search warrant.

Included in the list of unlawful acts is operating as a milk producer or a milk processing plant without obtaining a license from the department. Authority is provided for the department to issue a cease and desist order if there is reason to believe that a person is operating without a license as required by this chapter. The person to whom the order is issued may request an adjudicative proceeding.

Authority is provided to embargo products and to order that embargoed products be destroyed. The department would not be liable for damages if the court finds that there was probable cause for embargoing the products.

Persons convicted violating the licensing requirements are guilty of a misdemeanor for the first offense and a gross misdemeanor for subsequent offenses. This is in addition to civil fines that may be assessed for violations.

The department is to convene a work group to identify and help resolve obstacles to meeting licensing requirements by small dairies. A report to the Legislature on the work and recommendations of this group is to be submitted to the appropriate standing committees of the Legislature by December 1, 2006.

Votes on Final Passage:

Senate	46	2	
House	88	10	(House amended)
Senate	43	0	(Senate concurred)

Effective: June 7, 2006

SSB 6382
C 174 L 06

Authorizing the Washington horse racing commission to expend a statutorily limited amount of its operating funds for the development of the equine industry, improvement of racing facilities, and equine health research.

By Senate Committee on Labor, Commerce, Research & Development (originally sponsored by Senators Hewitt, Kohl-Welles, Rasmussen, Finkbeiner, Pflug and Sheldon; by request of Horse Racing Commission).

Senate Committee on Labor, Commerce, Research & Development
House Committee on Commerce & Labor

Background: The Horse Racing Commission (HRC) has the dual responsibility of regulating horse racing and encouraging the equine industry in Washington. HRC currently authorizes parimutuel betting on horse race meets at one Class A (for-profit, owner-operated) facility, Emerald Downs in Auburn and four Class C (nonprofit, ten days or less of racing per year) tracks in Kennewick, Waitsburg, Walla Walla, and Dayton.

HRC's operations are financed primarily through a tax of 1.30 percent on the daily gross receipts of the Class A race track, with the remainder generated from licensing fees and fines imposed for regulatory violations.

An additional 1 percent tax is levied on the daily gross receipts of the Class A race track. Funds raised by this tax are annually distributed equally to: (1) owners of Washington-bred horses that either finish fourth or better at a Class A race meet; and (2) offset part of the capital construction costs of the licensee's new track. Interest earned on these funds supports small race tracks.

Another one-tenth of 1 percent tax is also levied on the gross receipts of the Class A race track, and is used to add to the prize money paid at Class C race meets that have been in operation for five or more years. Annually, HRC must distribute $300,000 for this purpose, with HRC's operating account responsible for any difference between $300,000 and the amount raised by the tax. In recent years, the difference has been about $150,000 per year.

Summary: When sufficient funds exist, HRC is authorized to expend, after appropriation, up to $300,000 per fiscal year to help upgrade nonprofit racing facilities, and assist in equine health research.

Votes on Final Passage:

Senate	43	1
House	94	3

Effective: June 7, 2006

ESSB 6384

PARTIAL VETO

C 371 L 06

Adopting the 2006 supplemental capital budget.

By Senate Committee on Ways & Means (originally sponsored by Senators Fraser, Prentice, Doumit, Zarelli and Brandland; by request of Governor Gregoire).

Senate Committee on Ways & Means
House Committee on Capital Budget

Background: The capital construction expenses of state government and its agencies and programs are funded on a biennial basis by an omnibus capital 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 capital budget expenses are paid from the State Building Construction Account and from various dedicated funds and accounts.

Summary: The 2005-07 biennial capital appropriations for various agencies and programs are modified. For additional information, see "Supplemental Capital Budget Summary" published by the Senate Ways & Means Committee. The information is also available on the Internet at www.leg.wa.gov/senate/scs/wm/.

Votes on Final Passage:

Senate	48	0	
House	91	6	(House amended)
Senate			(Senate refused to concur)
Conference Committee			
House	94	4	
Senate	48	0	

Effective: March 31, 2006
June 30, 2007 (Section 232)

Partial Veto Summary: The Governor vetoed nine sections or portions of sections of the supplemental capital budget. For additional information, see the Governor's veto message or the Legislative Budget Notes published by the Senate Ways & Means Committee and the House Appropriations Committee.

VETO MESSAGE ON ESSB 6384

March 31, 2006

To the Honorable President and Members,
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning, without my approval as to Sections 105(6); 106(4), line item 13, page 10; 116; 155(1), (2), (3); 180; 195; 199; 211; and 230 of Engrossed Substitute Senate Bill No. 6384 entitled:

"AN ACT Relating to the capital budget."

My reasons for vetoing these sections are as follows:

Section 105(6), pages 5-6, Department of Community, Trade, and Economic Development, Housing Liability Revolving Fund

This proviso would require the Department of Community, Trade and Economic Development (CTED) to contract with the Washington State Housing Finance Commission to establish a liability revolving fund for condominium and multi-unit residential buildings. This provision was previously included in legislation that failed to pass this session. The language defines eligibility for a new, on-going service. It is inappropriate to establish this type of program in an appropriations bill.

Although I have vetoed Section 105(6), I am directing CTED to work with the Housing Finance Commission to accomplish these program goals to the maximum extent allowable under law.

Section 106(4), line item 13 on page 10, Department of Community, Trade, and Economic Development, Tritrail Feasibility Study

This project would provide general obligation bond funds to study a three-city walking and biking trail, starting in Tukwila and eventually linking to Mount Rainier National Park. It is not prudent to use long-term bond financing to pay for a feasibility study. I have, therefore, vetoed the appropriation related to this project.

Section 116, pages 19-20, Department of General Administration, Pritchard Building Pre-design

This Americans with Disabilities Act of 1990 (ADA) access project was funded in the 2005-07 capital budget. Proviso language was added in this bill to require the Department of General Administration to include design and construction of the ADA pathway project to the Pritchard Building as part of the Pritchard Building pre-design. The pre-design is a separate project and combining these projects could add another year to the ADA path project, as well as increase the total cost. The Capitol Campus Design Advisory Committee has approved the ADA access plan and the ADA path project is ready to proceed to design. I have vetoed Section 116 to allow for timely completion of this project.

Section 155(1), (2), and (3), pages 45 -46, Interagency Committee for Outdoor Recreation, Hood Canal Grant Program

Sections 155 (1), (2) and (3) establish a process for the Interagency Committee for Outdoor Recreation (IAC) to administer a grant program addressing low-dissolved oxygen concentrations in Hood Canal. It is a reasonable approach to allow the Governor to remove projects from a list developed by the Puget Sound Action Team, and for the IAC not to commit funds until the Legislature has appropriated funds for a specific list of projects. However, this new process will prevent any projects from being started until the spring of 2007.

In order for these critical projects to move forward as quickly as possible, I have vetoed Sections 155 (1), (2) and (3). In addition, I am directing the IAC to proceed with a process to select projects based on the prioritized recommendations of the Puget Sound Action Team and the Hood Canal Coordinating Council. I also am instructing the IAC to review the list of projects with the Governor's Office and appropriate legislators before signing contracts.

Section 180, page 58, Department of Fish and Wildlife, Olympia Facilities

Section 180 directs the Department of Fish and Wildlife to vacate its downtown Olympia facilities by June 2007 and for the Department of General Administration to dispose of the properties. RCW 77.12.210 gives the director of the Department of Fish and Wildlife the authority to maintain and manage real or personal property owned, leased, or held by the department. The Fish and Wildlife Commission may authorize the director to dispose of real or personal property under the control of the department. This section directing the Department of General Administration to dispose of this property conflicts with this existing statute.

Although I have vetoed Section 180, I am directing the Department of General Administration to work with the Department of Fish and Wildlife to develop a plan addressing the consolidation of services, relocation of users, and long-term use of the properties, and to report to the Legislature and Office of Financial Management by December 1, 2006.

Section 195, pages 68-69, State Board of Education, IslandWood

This section adds funding for capital projects at IslandWood Education Center. Article IX, Section 3 of the Washington State Constitution states that the Common School Construction Account shall be used exclusively for financing the construction of facilities for the common schools. RCW 28A.150.020 defines common schools as schools maintained at public expense in each school district and carrying on a program from kindergarten through the twelfth grade or any part thereof including vocational educational courses otherwise permitted by law. IslandWood is a non-profit organization that serves students from fifty schools and 50,000 households in Puget Sound. I have vetoed Section 195 because funding a non-profit entity is not consistent with the intended use of the Common School Construction Account.

Section 199, pages 71-72, State Board of Education, Acoustic Technology

This section would provide funding for demonstration projects to test the use of sound amplification technology in the classroom. Grant recipients must contribute a 50 percent match for these funds and provide a measure of the effectiveness of this technology. There is no evidence that suggests that the use of this technology creates a substantial benefit to students. In addition, the program is likely to have substantial future costs. For these reasons, I have vetoed Section 199.

Section 211, pages 76-77, State Arts Commission, Capitol Sundial Repair

This section provides funding to support a $5,000 competitive grant for design and repair of the State Capitol Sundial. This small amount is not appropriately financed through long-term general obligation bonds. I have vetoed Section 211 and believe that other funding sources can be found for this project.

Section 230, pages 92-93, Vendor Services

Section 230 eliminates the rent currently paid by the Department of Services for the Blind (DSB) for food service providers and vending machines. It also requires that the Department of General Administration (GA) pay preventative maintenance on food service equipment used by these vendors; that private buildings with at least 100 state employees contract with the DSB for vending facilities and/or vending machines in the cities of Olympia, Lacey and Tumwater; and that GA conduct a study establishing a process for blind vendors to enter into franchise agreements with commercial food providers.

Although I am concerned about the issues addressed by this section, I believe it is inappropriate to simply transfer these vendor costs to state agencies that pay rent in state buildings. I have vetoed Section 230 in order to allow more time to assess the situation statewide, and explore alternatives.

With the exception of Sections 105(6); 106(4), line item 13, page 10; 116; 155(1), (2), (3); 180; 195; 199; 211; and 230 as specified above, Engrossed Substitute Senate Bill No. 6384 is approved.

Respectfully submitted,

Christine O. Gregoire
Governor

ESSB 6386

PARTIAL VETO

C 372 L 06

Making 2006 supplemental operating appropriations.

By Senate Committee on Ways & Means (originally sponsored by Senators Prentice, Zarelli, Fairley, Fraser, Rockefeller, Shin and Brandland; by request of Governor Gregoire).

Senate Committee on Ways & Means
House Committee on Appropriations

Background: The operating expenses of state government and its agencies and programs are funded on a biennial basis by an omnibus operations budget adopted by the Legislature in odd-numbered years. In even-numbered years, a supplemental budget is adopted, making various modifications to agency appropriations. State operating expenses are paid from the state General Fund and from various dedicated funds and accounts.

Summary: The 2005-07 biennial appropriations for various agencies and programs are modified. For additional information, see "Supplemental Operating Budget Summary" and "Statewide Summary and Agency Detail" published by the Senate Ways & Means Committee. The information is also available on the Internet at www.leg.wa.gov/senate/scs/wm/.

Votes on Final Passage:

Senate	26	19	
House	53	43	(House amended)
Senate			(Senate refused to concur)
Conference Committee			
House	57	41	
House	55	43	(House reconsidered)
Senate	29	19	

Effective: March 31, 2006

Partial Veto Summary: The Governor vetoed 28 sections or portions of sections of the supplemental operating budget. For additional information, see the Governor's veto message or the Legislative Budget Notes published by the Senate Ways & Means Committee and the House Appropriations Committee.

VETO MESSAGE ON ESSB 6386

March 31, 2006

To the Honorable President and Members,
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning, without my approval as to parts of Sections 126(42), 126(63), 128(3), 128(10), 131(2), 137(12), 139, 204(1)(x), 207(5), 217(13), 217(17), 221(25), 302(16), 307(21)(c), 308(16), 518(4), 602(16), 602(22), 602(25), 603(18), 604(14), 606(5), 607(7), 611(1), 611(3), 708(1)(d), 711(4), and 906, of Engrossed Substitute Senate Bill No. 6386 entitled:

"AN ACT Relating to fiscal matters."

My reasons for vetoing the above-noted Sections are as follows:

Section 126(42), page 31, Department of Community, Trade, and Economic Development, Small Business Incubators

This proviso funds implementation of Third Substitute House Bill 1815 pertaining to Small Business Incubators, and stipulates that the appropriation will lapse if the bill is not enacted. Since that bill did not pass the Legislature, I have vetoed Section 126(42).

Section 126(63), page 34, Department of Community, Trade, and Economic Development, Washington Trade Corps Fellowship Program

This proviso funds implementation of Substitute Senate Bill 6330 and stipulates that the appropriation will lapse if the bill is not enacted. Since I have vetoed Substitute Senate Bill 6330, I have also vetoed Section 126(63).

Section 128(3), page 36, Office of Financial Management, Classified School Employees

New language directs the Washington Learns steering committee to review funding for classified school employees and to report findings and recommendations that include how classified school employees can enhance students' abilities to meet state learning standards. Washington Learns is a comprehensive study of education from early learning through higher education, encompassing all employee groups within the educational system. I have vetoed Section 128(3) because it is not necessary to single out any specific class of employees, and because the requirements of this new language will be met under the current work plan for Washington Learns.

Section 128(10), page 38, Office of Financial Management, Report on State-purchased Health Care Costs

This proviso requires the Office of Financial Management to prepare a report on state-purchased health care costs and expenditures. Since no funding is provided for this activity, I have vetoed section 128(10).

Section 131(2), page 40, State Lottery, Research

This proviso permits the use of agency appropriations for the implementation of Senate Concurrent Resolution 8417, and stipulates that the subsection will lapse if the resolution is not enacted. Since that resolution did not pass the Legislature, I have vetoed Section 131(2).

Section 137(12), page 46, Department of Revenue, Streamlined Sales Tax

This proviso funds implementation of Substitute Senate Bill 6594 and stipulates that the appropriation will lapse if the bill is not enacted. Since that bill did not pass the Legislature, I have vetoed Section 137(12).

Section 139, page 46-47, Municipal Research Council, Special Purpose Districts

I have vetoed the portion of Substitute Senate Bill 6555 that diverts revenue from the general fund to the Special Purpose District Research Services Account. For consistency, I also have vetoed Section 139.

Section 204(1)(x), page 77, Department of Social and Health Services Mental Health Division, Mental Health Professionals

This proviso references Second Substitute House Bill 2912, which would require two mental health care professionals for all home visits that require mental health evaluations. Since that bill did not pass the Legislature, I have vetoed Section 204(1)(x).

Section 207(5), page 94, Department of Social and Health Services Economic Services Division, Child Support Schedule

This proviso funds Second Substitute House Bill 2462, which established work groups to periodically review the child support schedule, and stipulates that the appropriation will lapse if the bill is not enacted. Since that bill did not pass the Legislature, I have vetoed Section 207(5).

Section 217(13), page 116, Department of Labor and Industries, Agricultural Workers

This proviso funds Engrossed House Bill 2623 relating to agricultural workers, and stipulates that the appropriation will lapse if the bill is not enacted. Since the bill did not pass the Legislature, I have vetoed Section 217(13).

Section 217(17), pages 116-117, Department of Labor and Industries, Brochures on Building Contractors

This proviso provides $10,000 General Fund-State solely for the Department of Labor and Industries to prepare consumer information brochures on contracting for new construction or remodeling construction work. I am directing the Department of Labor and Industries to perform all the functions and procedures listed in this proviso within existing funds. I have, therefore, vetoed Section 217(17).

Section 221(25), page 126, Department of Health, Background Checks/Health Care

This proviso funds implementation of Substitute House Bill 2431 and stipulates that the appropriation will lapse if the bill is not enacted. Since that bill did not pass the Legislature, I have vetoed Section 221(25).

Section 302(16), page 142, Department of Ecology, Brominated Flame Retardants

This proviso funds implementation of Engrossed Second Substitute House Bill 1488 and stipulates that the appropriation will lapse if the bill is not enacted. Since that bill did not pass the Legislature, I have vetoed Section 302(16).

Section 307(21)(c), page 153, Department of Fish and Wildlife, Fiscal Reporting and Modeling

This section requires Washington's Department of Fish and Wildlife (WDFW) to develop an electronic revenue forecast model with the Office of Financial Management and the Department of Revenue for forecasting the state Wildlife Account. Although the WDFW's ability to accurately forecast revenues has been a concern in the past, its current methodology has proven generally reliable. There is no evidence that a new forecasting model would significantly improve state Wildlife Account forecasts, and no additional funding was provided to develop a new model. For these reasons, I have vetoed Section 307(21)(c).

Section 308(16), page 161, Department of Natural Resources, Wildfire Prevention

This proviso directs the Department of Natural Resources to implement a workgroup defined in Substitute Senate Bill 6603, relating to wildfire prevention. Since that bill did not pass the Legislature, I have vetoed Section 308(16). However, the department has the authority to engage in this activity and I would encourage it to do so.

Section 518(4), page 222-223, Department of Early Learning, Contingency Funding

This proviso was included in the budget to serve as a contingency to reverse the funding transfers to the Department of Early Learning, if the new department had not been created. Since Second Substitute House Bill 2964 passed the Legislature, and the Department of Early Learning goes into effect on July 1, 2006, I have vetoed this section for the technical reason that it is no longer needed.

Section 602(16), page 229, State Board for Community and Technical Colleges, High Demand Training

This proviso provides funding for and directs the State Board for Community and Technical Colleges to identify high demand occupations, develop or utilize skills standards or credentials for those occupations, and market the standards and credentials to educational institutions and employers. This agency, the Higher Education Coordinating Board, the Workforce Training and Education Coordinating Board, and the Department of Employment Security have already accomplished much of this work in prior studies. I have, therefore, vetoed Section 602(16).

Section 602(22), page 231, State Board for Community and Technical Colleges, Nursing Faculty Retention Pilot Program

This proviso attempts to address a real problem relating to nursing recruitment and retention, but addresses it in a very narrow fashion. The State Board for Community and Technical Colleges, along with industry stakeholders, needs to consider various, statewide options for retaining nursing faculty and keeping qualified teachers in the classroom. This proviso directs

state funds to a very limited number of sites with no plan for retention of faculty beyond the current year. Therefore, I have vetoed Section 602(22).

Section 602(25), page 231, State Board for Community and Technical Colleges, High School Completion

This proviso indicates that there is sufficient funding in the State Board for Community and Technical Colleges' budget to implement Engrossed Second Substitute House Bill 2582. Since that bill did not pass the Legislature, I have vetoed Section 602(25).

Section 603(18), page 235, University of Washington, Public Curriculum Study

This proviso directs the University of Washington's College of Education to conduct a review of curriculum offered by Washington public schools to examine the extent to which the curriculum accurately includes the history, contributions, and contemporary experiences of people of color. With 296 school districts in Washington making individual decisions regarding curriculum offered to students in more than 2,000 Washington schools, the study is a monumental task. It is not clear that the results of a narrow study will be applicable throughout the state. While this is an important issue, the scope of the study needs to be refined or funding must be increased. Therefore, I have vetoed Section 603(18).

Section 604(14), page 239, Washington State University, Local Government Reference

Although the provision of local government reference books may be valuable, this effort should be prioritized within existing resources. Therefore, I have vetoed Section 604(14).

Section 606(5), page 243, Central Washington University, Additional Tuition Waivers

This proviso funds additional tuition waivers. While I understand the inequity in the original waiver limits set by the Legislature more than a decade ago, I do not concur with this appropriation for a purpose that does not create additional enrollment slots for our students. Since the waiver limit has been in place so long, it is also clear that this is not an emergency that requires action in a supplemental budget. Therefore, I have vetoed Section 606(5).

Section 607(7), page 245, The Evergreen State College, Collective Bargaining Unit Training

This proviso expands collective bargaining and bargaining unit training at The Evergreen State College's Labor Education and Research Center. The Center currently provides similar training by contracting with those who will receive the training. The Center can expand the collective bargaining and bargaining unit training under its current finance model, so I have vetoed Section 607(7).

Section 611(1), page 256, Workforce Training and Education Coordinating Board, Private Vocational Schools

This proviso funds implementation of House Bill 2597 and stipulates that the appropriation will lapse if the bill is not enacted. Since that bill did not pass the Legislature, I have vetoed Section 611(1).

Section 611(3), page 257, Workforce Training and Education Coordinating Board, Worker Training B & O Tax

This proviso funds implementation of Engrossed Substitute House Bill 2565, relating to worker training business and occupation tax. The appropriation will lapse if the bill is not enacted. Engrossed Substitute House Bill 2565 did not pass the Legislature, so I have vetoed Section 611(3).

Section 708(1)(d), page 266, Department of Retirement Systems, Implementation of SHB 2934 (Survivor Health Benefits)

This proviso funds the implementation of Substitute House Bill 2934, and stipulates that the appropriation will lapse if the bill is not enacted. The provisions of that bill, however, passed the Legislature in Senate Bill 6723. Since the bill cited in this proviso did not pass the Legislature, I have vetoed Section 708(1)(d) for the sake of clarity.

Section 711(4), page 268, Strategic Purchasing Strategy

This proviso indicates that the State Board for Community and Technical Colleges is not subject to the General Fund-State allotment reduction related to implementation of a statewide purchasing strategy. In order to continue to encourage all state agencies to be as efficient and economical in their purchasing as possible, I have vetoed Section 711(4), and will direct the Department of General Administration to work with the colleges on a practical approach to achieve purchasing savings.

Section 906, pages 282-284, State Parks and Recreation Commission, Authority to Charge Day-Use Access or Parking Fees

This section prohibits the State Parks and Recreation Commission from charging fees for general park access or parking from the effective date of this bill through June 30, 2007. This prohibition also appears in Section 303(5) of this bill. Since the underlying statute has also been amended in Substitute House Bill 2416 to prohibit general park access or parking fees permanently, beginning April 9, 2006, Section 906 is redundant and unnecessary, I have vetoed Section 906. However, to harmonize the temporary disparities in effective dates, I hereby direct the State Parks and Recreation Commission to discontinue collecting these fees effective immediately.

In addition to these vetoes, I would like to comment on two other aspects of this bill:

Emergency Management

Section 150(7) provides $2 million for the Military Department to expand its emergency management planning and training activities, study the feasibility of regional medical assistance and search-and-rescue teams, and administer a competitive grant program to support local emergency management efforts.

Emergency response is an important state priority, and I am directing the Military Department to report to me on a regular basis concerning the uses of this funding and the specific improvements in emergency preparation that have been achieved through the grant process.

Capital Projects

This operating budget bill includes funding for facility repair and renovation, trail upgrades, and property improvements that more appropriately belong in the capital budget. Although these projects have distinct public benefit, they create long-term assets and should be considered among all other capital needs and priorities rather than competing against critical general fund operating programs. I sincerely hope that next year the Legislature will keep projects of this nature out of the operating budget and in the capital budget, where they properly belong.

With the exception of those portions of sections 126(42), 126(63), 128(3), 128(10), 131(2), 137(12), 139, 204(1)(x), 207(5), 217(13), 217(17), 221(25), 302(16), 307(21)(c), 308(16), 518(4), 602(16), 602(22), 602(25), 603(18), 604(14), 606(5), 607(7), 611(1), 611(3), 708(1)(d), 711(4), and 906, as specified above, Engrossed Substitute Senate Bill No. 6386 is approved.

Respectfully submitted,

Christine O. Gregoire
Governor

ESSB 6391
C 242 L 06

Concerning the provision of services for nonresident individuals residing in long-term care settings.

By Senate Committee on Health & Long-Term Care (originally sponsored by Senators Keiser, Deccio, Thibaudeau and Fairley).

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

Background: Supportive services, limited health care services, and wellness programs often allow residents of retirement/senior housing the ability to remain independent and in their own homes for as long as possible. A nonresident living in retirement/senior housing within a continuing care retirement community (CCRC) has ready access to support services, limited health care services, and wellness programs.

A CCRC provides different levels of care ranging from independent living to assisted living to skilled nursing care under a continuing care contract. A continuing care contract is a contract to provide a person shelter along with nursing, medical, health-related, or personal care services, which is conditioned upon payment of an entrance fee, transfer of property, or the payment of periodic charges for the care and services involved.

Currently, a nonresident residing in independent senior housing can receive very specific health services such as: assistance on an emergency basis; infrequent, voluntary, and non-scheduled blood pressure checks; nurse referral services; assistance with making health care appointments; and services customarily provided under landlord tenant agreements.

Health care assistants are unlicensed individuals who assist other licensed health care practitioners such as physicians and registered nurses, in providing health care to patients. Health care assistants can be certified by a health care facility or a health care practitioner.

Summary: Adult day services are defined as care and services provided to a nonresident individual by the boarding home on the boarding home premises, for a period of time not to exceed ten continuous hours, and does not involve an overnight stay.

Health care assistants are permitted to conduct blood drawing procedures on research study participants in the residences of the research study participants as long as they do so as part of a research study authorized by the institutional review board of a comprehensive cancer center or a nonprofit degree-granting institution of higher education. Blood drawing procedures must be conducted under the general supervision of a physician.

Votes on Final Passage:

Senate	47	0	
House	97	0	(House amended)
Senate	45	0	(Senate concurred)

Effective: June 7, 2006

ESSB 6396
C 243 L 06

Modifying the accumulation and use of sick leave accrued by part-time faculty.

By Senate Committee on Labor, Commerce, Research & Development (originally sponsored by Senators Kohl-Welles, Schmidt, Pridemore, Keiser, Franklin, Thibaudeau, Spanel and Jacobsen).

Senate Committee on Labor, Commerce, Research & Development
Senate Committee on Ways & Means
House Committee on Higher Education & Workforce Education
House Committee on Appropriations

Background: In 1996, the Legislature passed SB 6583 directing the State Board for Community and Technical Colleges (SBCTC) to convene a task force to conduct a best practices audit of compensation packages and conditions of employment for part-time faculty. The Best Practices Task Force reported to the Legislature in January 1997. One of the report's best practices states, "The best practice is to develop/bargain a policy that provides some sick leave to adjunct faculty who have a continuing relationship with the colleges."

As a result of this finding, the Legislature passed 2SSB 6811 in 2000, which established a sick leave policy for part-time faculty on a pro-rata basis, as recommended by the Task Force.

Currently, part-time academic employees may accrue sick leave after their first quarter of employment but community and technical colleges are not required to allow part-time academic employees to accrue sick leave. There is no standard among the state community and technical colleges as to how much leave may be accrued or whether the leave may be transferred.

Summary: Part-time academic employees must accumulate sick leave.

Votes on Final Passage:

Senate	47	1	
House	97	1	(House amended)
Senate	45	0	(Senate concurred)

Effective: June 7, 2006

SSB 6401
C 186 L 06

Modifying definitions of charter licenses.

By Senate Committee on Natural Resources, Ocean & Recreation (originally sponsored by Senators Doumit, Jacobsen, Schoesler, Regala, Morton and Honeyford).

Senate Committee on Natural Resources, Ocean & Recreation
House Committee on Natural Resources, Ecology & Parks

Background: A salmon charter license or a nonsalmon license is required to operate a charter boat to take food fish and shellfish.

A charter boat is defined as a vessel from which persons may, for a fee, fish for food fish or shellfish for personal use, and that brings food fish or shellfish into state ports or brings food fish or shellfish taken from state waters into United States ports. The term does not mean a vessel used by a guide for clients fishing for food fish for personal use in freshwater rivers, streams, and lakes, other than Lake Washington or the Columbia River below the bridge at Longview.

A charter boat licensed in Oregon may fish without a Washington charter license, when operating from the southern border of the state to Leadbetter Point, so long as the vessel does not land at any Washington port with the purpose of taking on or discharging passengers. This provision applies so long as the state of Oregon has reciprocal laws and regulations.

Summary: The circumstances under which a charter license is required are changed. A salmon or nonsalmon charter license is required to operate a charter boat from which persons may, for a fee, fish for food fish and shellfish.

The definition of a charter boat is changed to include vessels from which persons may, for a fee, fish for food fish or shellfish for personal use in specified state waters, or offshore waters or the waters of other states. Those state waters specified are Puget Sound, Grays Harbor, Willapa Bay, Pacific Ocean waters, Lake Washington, or the Columbia River below the bridge at Longview.

A charter boat licensed in Oregon may fish without a Washington charter license, when operating from the southern border of the state to Leadbetter Point, so long as the vessel does not take on or discharge passengers from a Washington port, the Washington shore, or a dock, landing, or other point in Washington.

Votes on Final Passage:

Senate	48	0
House	97	0

Effective: June 7, 2006

SSB 6406
C 124 L 06

Including assault of a child in the second degree in the list of two-strike offenses.

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Hargrove, Stevens, Doumit, McAuliffe, Regala, Rasmussen, Benton and Oke; by request of Attorney General).

Senate Committee on Human Services & Corrections
House Committee on Criminal Justice & Corrections

Background: Assault of a child in the second degree. Assault of a child in the second degree, a class B felony, occurs when a person 18 years old or older either: (1) commits the crime of assault in the second degree, as defined elsewhere in statute, against a child under the age of 13; or (2) intentionally assaults the child and causes serious bodily harm and the person has previously engaged in a pattern or practice either of: (a) assaulting the child, causing serious bodily harm; or (b) causing physical pain equivalent to that produced by torture.

To commit a crime with sexual motivation means that a crime was committed, at least in part, for a person's sexual gratification.

Persistent offenders: Washington's two-strikes law. A person convicted of two of the crimes listed in the two-strikes law must be sentenced to life in prison without the possibility of release.

Summary: Assault of a child in the second degree with sexual motivation is added to the list of two-strikes crimes and to the list of crimes subject to determinate-plus sentencing.

Votes on Final Passage:

Senate	44	4
House	98	0

Effective: June 7, 2006 (Section 2)
July 1, 2006

SB 6411
FULL VETO

Allowing six-year long collective bargaining agreements.

By Senators Doumit, Parlette, Pridemore, Delvin, Fraser, McAuliffe, Shin and Kohl-Welles.

Senate Committee on Labor, Commerce, Research & Development
House Committee on Commerce & Labor

Background: Collective bargaining agreements entered into between a county, municipal corporation, or political subdivision of the state and an exclusive bargaining representative cannot extend for more than three years.

Summary: The length of collective bargaining agreements between local government and an exclusive bargaining representative is changed from three years to six years.

Votes on Final Passage:

Senate	43	4
House	74	24

VETO MESSAGE ON SB 6411

March 29, 2006

To the Honorable President and Members,
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning, without my approval, Senate Bill No. 6411 entitled:

"AN ACT Relating to collective bargaining agreements."

This bill allows bargaining a contract of up to six years for public employees who are covered by the Public Employees' Collective Bargaining Act (PECBA). The intent of the legislation is to provide stability and lower costs for smaller local governmental entities. However, current law restricts contracts under PECBA to a three-year duration.

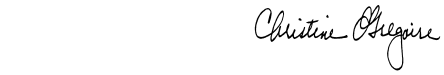
PECBA covers mainly city, county and local government employees. It also includes several state employee groups, including state troopers, the University of Washington Print Shop, and several other higher education classified units. At least one of the state employee groups covered by the PECBA has binding interest arbitration - state troopers. In addition, home health care workers, and family childcare providers, who are also covered by PECBA, have binding interest arbitration. This dispute resolution mechanism could lead to settlements that violate the principle that the state cannot obligate future legislatures beyond the current biennium.

If an imposed settlement violated this principle, court challenges could ensue. While I understand that current law allows for contracts to exceed the two-year budget cycle, this was not an issue of concern for the state until last year when changes in the state troopers' bargaining law allowed for bargaining over wages and benefits. In the last several years, the addition of collective bargaining rights for home care workers and family child care workers also increases the likelihood of legal challenges over contract duration.

If legislation were introduced in the next session with provisions to address the above concerns regarding state employee groups, I would certainly look much more favorably on the bill.

For these reasons, I have vetoed Senate Bill No. 6411 in its entirety.

Respectfully submitted,



Christine O. Gregoire
Governor

SB 6412
FULL VETO

Increasing the number of superior court judges in Clallam and Cowlitz counties.

By Senators Doumit, Zarelli and Hargrove.

Senate Committee on Judiciary
House Committee on Appropriations

Background: The number of superior court judges in each county is set by the Legislature. The state and counties share the costs of the superior courts. Retirement benefits and one-half of the salary of a superior court judge are paid by the state. The other half of the judge's salary and all other costs associated with a judicial position, such as court facilities and support staff costs, are paid by the counties.

Clallam county has two superior court judges. Cowlitz county has four superior court judges. Based on a workload analysis by the Administrative Office of the Courts (AOC), an additional superior court judge is needed for each county.

Summary: The number of superior court judges in Clallam county is increased to three; the number of superior court judges in Cowlitz county is increased to five.

The superior court positions created by this bill are only effective if Clallam and Cowlitz counties document approval of the positions and agree to fund the expenses of the positions, including, but not limited to, court facilities.

Votes on Final Passage:

Senate	48	0
House	97	1

VETO MESSAGE ON SB 6412

March 29, 2006

To the Honorable President and Members,
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning, without my approval, Senate Bill No. 6412 entitled:

"AN ACT Relating to superior court judges."

The substance of this bill was already accomplished through House Bill No. 2344, which I signed into law on March 9, 2006. Therefore, I am vetoing Senate Bill 6412 in its entirety.

Respectfully submitted,

Christine O. Gregoire
Governor

SB 6415
C 190 L 06

Allowing interpreters to assist hearing impaired persons during driver's license examinations.

By Senators Pridemore, McAuliffe, Mulliken and Kohl-Welles.

Senate Committee on Transportation
House Committee on Transportation

Background: There are two tests involved in obtaining a driver's license: a knowledge exam and a skills exam. The Department of Licensing (DOL) may adopt rules relating to driver testing procedures. DOL policy, during

the knowledge exam, is to hire a deaf interpreter for those applicants who think they would benefit from it. The interpreter may only assist the applicant in understanding the exam questions and choice of answers. Family members or friends may not be used as the interpreter. In the skills exam, DOL policy is to set aside additional time for the exam and to meet with the applicant before the exam to discuss preferred modes of communication. An interpreter is not allowed in the car during the skill exam.

Summary: DOL is directed to allow deaf interpreters in the car during the skills exam. The interpreter must be chosen from a list supplied by DOL.

Votes on Final Passage:

Senate	47	0	
House	98	0	(House amended)
Senate			(Senate refused to concur)
House	98	0	(House amended)
Senate	44	0	(Senate concurred)

Effective: June 7, 2006

SB 6416
C 65 L 06

Prohibiting pyramid promotional schemes.

By Senators Keiser, Hewitt, Rockefeller, Kohl-Welles, Prentice, Finkbeiner, Parlette, Sheldon, Deccio, Shin, Esser and Rasmussen.

Senate Committee on Labor, Commerce, Research & Development
House Committee on Commerce & Labor

Background: A chain distribution scheme involves: (1) a person making an investment to obtain the right to recruit others; (2) new recruits who are also required to make an investment to obtain the right to recruit others into the program; and (3) a person previously investing in the program receiving money or something of value when new recruits enter the program.

A chain distribution scheme is an unfair and deceptive practice under the Consumer Protection Act (CPA). Generally, under the CPA, a court may issue an injunction to stop the scheme, impose penalties, and order restitution to injured parties, court costs, and attorney fees.

Summary: A pyramid scheme is defined as an enterprise in which a person pays something for the right to receive compensation that is derived primarily from the recruitment of other persons as participants in the enterprise. Enterprises where participants' compensation is based on the bona fide sale of goods, services, or intangible property to others is not a pyramid scheme. Payments by participants for goods, etc. to be sold by the participants do not constitute "consideration," if the goods, etc. are subject to a repurchase agreement.

Establishing, promoting, operating, or participating in a pyramid scheme violates the CPA.

The statutes defining and prohibiting chain distribution schemes are repealed.

Votes on Final Passage:

Senate	43	0
House	97	0

Effective: June 7, 2006

SSB 6417
C 191 L 06

Changing provisions relating to animal cruelty.

By Senate Committee on Judiciary (originally sponsored by Senators Roach, Kline, Jacobsen, Esser, Weinstein, Thibaudeau, Benson, Rasmussen, Schmidt, Carrell, Morton, Deccio, Stevens, Mulliken, McCaslin, Hargrove and Delvin).

Senate Committee on Judiciary
House Committee on Criminal Justice & Corrections

Background: Washington law prohibits certain behaviors which are defined as cruelty to animals. Some of the behaviors prohibited are starvation, dehydration, or suffocation of an animal that causes it substantial and unjustifiable pain; causing animals to fight; intentionally poisoning an animal except for humane euthanasia or reasonable use of pest poison; and intentionally causing the physical injury or death of an animal by a means involving undue suffering. A behavior that is not prohibited under Washington law is sexual activity between a human being and an animal, or bestiality.

Thirty-one other states have laws prohibiting bestiality. A recent bestiality case in Washington, in which a man died, brought this conduct to the attention of many who did not know such behavior was occurring or thought it was already prohibited by law.

Summary: Animal cruelty in the first degree is committed when a person knowingly engages in sexual conduct or sexual contact with an animal. It also occurs when a person knowingly causes or aids another person to engage in sexual conduct or sexual contact with an animal. A person who knowingly permits such conduct or contact with an animal to occur on premises under his or her control or who knowingly participates as an observer, organizer, promoter, or advertiser of such conduct is also guilty of animal cruelty in the first degree. Animal cruelty in the first degree that is committed by engaging in any of the four above described types of conduct is a class C felony and is ranked at seriousness level III.

In addition to the penalties in statute for a class C felony, the court may order that the convicted person: (1) refrain from harboring or owning animals or residing in a household where animals are present; (2) participate in appropriate counseling; and (3) reimburse the animal

shelter or humane society for costs incurred for the care of any animals taken to the shelter or humane society as a result of the offender's criminal behavior. If the court has reasonable grounds to believe sexual conduct or sexual contact with an animal has occurred, it may order the seizure of all animals involved in the violation. An exemption is created for accepted animal husbandry practices or accepted veterinary medical practices by a licensed veterinarian or certified veterinary technician. Sexual conduct and sexual contact are defined in the legislation.

Votes on Final Passage:

Senate	36	0
House	98	0

Effective: June 7, 2006

SB 6418
C 66 L 06

Adding requirements to renew initial limited licenses for dental hygienists.

By Senators Keiser and Deccio.

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

Background: Dental hygienists in Washington must maintain a license to practice and must be supervised by a dentist except in limited settings. In-state applicants who complete an approved education program, have successfully completed examination requirements, have not engaged in unprofessional conduct, are able to practice with reasonable skill and safety, and who have complied with administrative and fee requirements are issued a license by the Secretary of the Department of Health.

Out-of-state applicants who:

1) have practiced in another state for two years;
2) graduated from an approved dental hygiene school;
3) successfully completed the dental hygiene national board examination; and
4) hold a valid license from another state that allows the same scope of practice as Washington can be issued an initial limited license by the department.

Currently, the initial limited license is for a term of 18 months and is renewable upon successful passage of the examination for administering local anesthetic and nitrous oxide/oxygen analgesia.

It is felt by some that the expanded scope of practice for dental hygienists in Washington is difficult for out-of-state applicants to match. This is perceived as a barrier to licensing out-of-state applicants.

Summary: An initial limited license can be issued without an examination to any applicant who meets the requirements as set out in the current law; however, if he or she holds a valid license in another state he or she need only show that it allows a substantively equivalent scope of practice.

An initial limited license issued for eighteen months is renewable when the applicant can:

1) demonstrate successful passage of a substantively equivalent dental hygiene patient evaluation/prophylaxis examination;
2) demonstrate successful passage of a substantively equivalent local anesthesia examination; and
3) demonstrate competency in the administration of nitrous oxide analgesia.

If an applicant licensed in another state is able to demonstrate substantively equivalent licensing standards in the administration of local anesthetic, this will amount to the successful passage of the local anesthesia examination, listed under 2) above.

The requirement that a temporary license holder meet the requirements for substantively equivalent licensing standards in restorative or local anesthetic is no longer necessary and is removed.

Votes on Final Passage:

Senate	48	0
House	98	0

Effective: June 7, 2006

ESSB 6427
C 285 L 06

Concerning schedules for the review of comprehensive plans and development regulations.

By Senate Committee on Government Operations & Elections (originally sponsored by Senators Kastama, Mulliken, Morton and Rasmussen; by request of Department of Community, Trade, and Economic Development).

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

Background: The Growth Management Act (GMA) establishes a seven-year cycle for review and revision (update) of policies and development regulations concerning critical areas and resource lands, for all cities and counties, and of comprehensive plans and development regulations, for those cities and counties that fully plan under the GMA. In 2005, cities and counties with updates due in 2005, 2006, and 2007 were given an additional year to complete updates of requirements regarding protection of critical areas.

Summary: Smaller, slower-growing counties and cities are given additional time to complete their GMA updates. Counties with updates due in 2005, 2006, or 2007 that have a population of no more than 50,000 and a population increase of no more than 17 percent in the previous 10 years have 3 additional years to complete the update, including requirements to protect critical areas.

Any cities with updates due in 2005, 2006, or 2007 that have a population of no more than 5,000 and a population increase of the greater of either 100 persons or no more than 17 percent in the previous 10 years, likewise have 3 additional years.

A comprehensive plan can be amended more often than once a year for a planned action, as long as all public participation and notice requirements are observed.

Votes on Final Passage:

Senate	45	0	
House	98	0	(House amended)
Senate	48	0	(Senate concurred)

Effective: June 7, 2006

ESSB 6428

PARTIAL VETO

C 183 L 06

Providing for electronic product recycling.

By Senate Committee on Water, Energy & Environment (originally sponsored by Senators Pridemore, Esser, Poulsen, Morton, Schmidt, Fairley, Benson, Berkey, Regala, Kohl-Welles, Weinstein, Prentice, Kastama, Johnson, Thibaudeau, Kline, Eide, Shin, Rockefeller, Jacobsen, Haugen, Doumit, Oke, Franklin, Swecker, Carrell, Rasmussen, Spanel, Fraser, McAuliffe, Keiser, Brown, Finkbeiner, Brandland and Benton).

Senate Committee on Water, Energy & Environment
Senate Committee on Ways & Means
House Committee on Natural Resources, Ecology & Parks
House Committee on Appropriations

Background: The Department of Ecology (DOE) estimates that between 2003 and 2010 over 4.5 million computer processing units, 3.5 million cathode ray tube monitors, and 1.5 million flat panel monitors will become obsolete in Washington. When discarded, these items could cause significant environmental harm.

In 2004, the Washington Legislature directed DOE to research the collection, recycling, and reuse of computer monitors, personal computers, and televisions. In a December 2005 report, DOE recommended that a collection and processing system be implemented and financed by manufacturers, based on product market share.

Summary: A manufacturer-implemented and - financed system for collecting, transporting, and recycling unwanted "covered electronic products" (CEPs) is established. CEPs include most computer monitors, desktop computers, laptop or portable computers, and televisions. Households, charities, school districts, and small businesses and governments may discard CEPs free of charge at collection centers throughout the state. Manufacturers may not sell CEPs in Washington unless they participate in the system, which must be operational by 2009.

Labeling. Beginning January 1, 2007, no person may sell or offer for sale an electronic product in Washington unless the manufacturer's brand is permanently affixed and readily visible. In-state retailers possessing unlabeled products on that date may exhaust their stock through sales.

Registration. CEP manufacturers, collectors, transporters, and processors must annually register with and provide information to DOE. Retail sellers may register and be held accountable as manufacturers.

Collection and Recycling Plans. Manufacturers must participate in plans to implement and finance handling of their "equivalent share" of CEPs, as determined by DOE. A plan using nonprofit organizations for CEP collection will be given a 5 percent credit applied to its collective equivalent share for pounds received from those organizations.

A manufacturer must participate in the standard plan developed by the Washington Materials Management and Financing Authority (Authority) unless it obtains DOE approval to participate in an independent plan. An independent plan may be submitted to DOE by a manufacturer or group of manufacturers representing at least a 5 percent share of CEPs; participants may not be new entrants or white box (unbranded product) manufacturers.

Plans must provide for convenient urban and rural collection services, with at least one collection site or alternate service for municipalities with populations greater than 10,000. Plans may limit the number of CEPs accepted per customer per day.

Plans must sample CEPs entering their programs and note information needed to calculate equivalent share. If costs are passed on to consumers, manufacturers may not charge a fee when an unwanted product is delivered or collected for recycling. Collectors providing premium or curbside services may charge a fee for their additional collection costs.

All plans must be submitted to DOE for review and approval, be operational by 2009, and updated at least every five years.

Washington Materials Management and Financing Authority. The Authority, established as a public entity, must devise and implement a standard plan responsible for handling the collective equivalent shares of its participating manufacturers. The Authority is governed by a board of directors (board) appointed by the Director of DOE, comprised of 11 representatives of participating manufacturers. The Directors of DOE, the Department of Community, Trade and Economic Development, and the State Treasurer serve as ex-officio members. The board must select a chair, create bylaws, and adopt a general operating plan, conducting at least one public hearing on that plan.

Participating manufacturers must pay the Authority's administrative and operational costs based on an equitable method reviewed and approved by DOE. If a manufacturer has not met its financial obligations, the Authority will notify DOE that the manufacturer is no longer participating in the standard plan.

A participating manufacturer may appeal an assessment of charges or apportionment of costs to the Director of DOE, whose decision can be reviewed by an arbitration panel, with subsequent limited Superior Court review.

Processing Standards and International Export Limitations. Plans must ensure that processors document compliance with environmental performance standards, nonrecycled residual disposal guidelines, and international export limitations. DOE may audit processors. Plans may not use prison labor for processing.

International export of electronic waste to certain nations by processors is prohibited, under certain circumstances, if the waste violates federal hazardous waste standards. Products exported into certain nations for reuse must be tested and labeled as fully functional or needing only minor repairs.

Annual Reporting. Plans must annually report to DOE regarding total weight of CEPs recycled by county, collection services by county, weight of CEPs processed by each processor, compliance with processing standards, educational and promotional efforts, sampling results, and other information deemed necessary by DOE. Nonprofit organizations collecting CEPs must report the weight of CEPs they collected during the previous year. Financial and proprietary information is exempt from public records disclosure requirements.

Outreach. Plans must inform consumers about where and how to recycle their CEPs. DOE and local governments must promote recycling. Retailers must provide pertinent information.

State Purchasing. The Department of General Administration (GA) must adopt purchasing preferences for electronic products meeting environmental standards for reducing or eliminating hazardous materials. GA must ensure that surplus products are managed only by registered transporters and processors and directed to legal secondary materials markets.

Fees. DOE must establish registration and plan review fees based on a sliding scale representing annual sales of CEPs in Washington.

Penalties. DOE must send a written warning to manufacturers not participating in an approved plan. After the initial warning, DOE will assess a noncomplying manufacturer a penalty of up to $10,000 per violation.

If the Authority or an independent plan fails to implement an approved plan, DOE will assess a penalty of up to $5,000 for the first violation and up to $10,000 for subsequent violations.

Persons not complying with manufacturer registration, education and outreach, reporting, labeling, retailer responsibility, collector and transporter registration, or processing requirements will receive a written warning. Noncomplying persons will be assessed a penalty of up to $1,000 for the first violation and up to $2,000 for subsequent violations.

Electronic Products Recycling Account. The electronic products recycling account is created to accept manufacturer fees, payments from plans not handling their collective equivalent share, and penalties. Moneys may be used solely by DOE to fulfill agency responsibilities under the act and for expenditures to plans exceeding their collective equivalent share.

Preemption. The act is void if federal law establishes a national electronic waste collection and recycling system that substantially meets the scope and intent of the act.

Reports to Legislature. DOE must report to the Legislature by April 1, 2010 and December 31, 2012, concerning numerous elements of the act.

Votes on Final Passage:

Senate	41	8	
House	69	29	(House amended)
Senate	38	11	(Senate concurred)

Effective: July 1, 2006

Partial Veto Summary: The Governor vetoed restrictions regarding international export of electronic waste.

VETO MESSAGE ON ESSB 6428

March 24, 2006

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 Section 26, Engrossed Substitute Senate Bill No. 6428 entitled:

"AN ACT Relating to providing electronic product recycling through manufacturer financed opportunities."

This bill creates a recycling program for 'electronic wastes,' which includes used and unwanted computers and televisions. Section 26 of the bill would prohibit the export of these wastes to certain other countries.

I regret that, based on legal advice, the State of Washington does not have the necessary authority to prohibit the export of electronic waste. Accordingly, I will not put the entire bill at risk because of this section alone.

However, I believe that the section represents good environmental policy. I will therefore call on the President and Congress to take up this issue and enact legislation that prohibits the export of our hazardous wastes to third world countries that are not prepared to manage them.

Once enacted by the federal government, I recognize this might affect our options for proper recycling and disposal of e-wastes. To make sure we are ready, I hereby direct the Department of Ecology to evaluate alternatives to the export of these wastes and recommend actions as needed to ensure capacity for their proper management.

For the remainder of the bill, this is a new program for the state and it will take some time and experience to make sure it runs right. I am asking Ecology to work closely with all affected stakeholders to ensure that this bill is implemented in a fair and equitable manner.

Along that line, I am directing Ecology to take the following steps:

1. To adopt, within their new program rules, rigorous financial assurance requirements for new manufacturers, sufficient to ensure that they will be responsible for recycling their products and not leave them for others to clean up;

2. To evaluate alternatives for managing legacy e-waste products in a manner that does not create competitive differences between existing and new companies, including a way to distribute costs of recycling past products more fairly among all affected parties; and,

3. To evaluate the use of product toxicity in lieu of, or in addition to, product weight, when determining equitable cost shares.

In addition, I am asking Ecology to provide annual reports on the progress, problems, and stakeholder concerns with implementation of this bill. The reports should include any needed changes to the statute to ensure fairness and clarity in the program.

For these reasons, I have vetoed Section 26 of Engrossed Substitute Senate Bill No. 6428.

With the exception of Section 26, Engrossed Substitute Senate Bill No. 6428 is approved.

Respectfully submitted,

Christine Gregoire
Governor

SB 6429
C 86 L 06

Exempting certain Native American cultural resources information from public disclosure.

By Senators Jacobsen, Oke, Haugen, Honeyford and Rasmussen; by request of Archaeology and Historic Preservation.

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

Background: Various exemptions exist to the general rule that all public records are available for public inspection and copying. One exemption protects information from public disclosure that identifies the location of archaeological sites in order to avoid their looting or depredation.

Watershed analysis rules were adopted by the Forest Practices Board (Board) in 1992. Watershed analysis is a biological and physical assessment of a watershed, designed to address the cumulative effects of forest practices on specific public resources and on cultural resources. In 1999, the Board commissioned a Forests and Fish Report (FFR) that recommended inclusion of a cultural resources component of watershed analysis. This component was to address issues that may arise from cultural resource concerns that are raised in the course of forest practices planning or permitting.

In 2005, the Board adopted rules that require completion of a cultural resources component of the watershed analysis. Based on assessment results, voluntary management strategies may be developed to protect and manage cultural resources. Proposed forest practices not incorporating these voluntary management strategies must have a review by the State Environmental Policy Act (SEPA) before the Department of Natural Resources (DNR) approves the proposed forest practices.

Summary: When acquired during watershed analysis performed as part of the Forests and Fish report, information that identifies the location of archaeological sites, historic sites, artifacts, or the sites of traditional activities of Indian tribes is exempt from public disclosure.

Votes on Final Passage:

Senate	47	0	
House	98	0	(House amended)
Senate	45	0	(Senate concurred)

Effective: July 1, 2006

SSB 6439
C 159 L 06

Concerning coastal crab fisheries licenses.

By Senate Committee on Natural Resources, Ocean & Recreation (originally sponsored by Senators Doumit, Oke, Jacobsen, Schoesler and Delvin).

Senate Committee on Natural Resources, Ocean & Recreation
House Committee on Natural Resources, Ecology & Parks

Background: Current statutory provisions set certain length restrictions on the ability of a coastal crab fishery license holder to designate vessels for use under a license. A license holder may not change designation to a vessel whose hull length exceeds 99 feet. A license holder may not change designation to a vessel that exceeds the length of the currently designated vessel by more than 10 feet. A license holder may generally change designation to a vessel comparable in size, or up to one foot longer than the currently designated vessel, no more than once in any two consecutive coastal crab seasons. Additionally, a license holder may generally change designation to a vessel between one and 10 feet longer than the currently designated vessel no more than once in any five consecutive coastal crab seasons.

Summary: A coastal crab fishery license holder may not change designation to a vessel that exceeds the vessel length designated on the license on the date this provision takes effect by more than 10 feet. However, if a designation is the result of an emergency transfer, the applicable vessel length would be the most recent permanent vessel designation on the license prior to the effective date of this provision.

A license holder may generally change designation to a vessel between one and 10 feet longer than the des-

ignated vessel on the effective date of this provision no more than once.

Vessel hull length means the length overall of a vessel's hull as shown by marine survey or manufacturer's specifications.

The Department of Fish and Wildlife must, by December 31, 2010, in cooperation with the coastal crab fishing industry, evaluate the effectiveness of this provision.

Votes on Final Passage:

Senate	44	0	
House	97	0	(House amended)
Senate	43	0	(Senate concurred)

Effective: June 7, 2006

SSB 6441
C 286 L 06

Changing the law related to judicial orders concerning distraint of personal property.

By Senate Committee on Judiciary (originally sponsored by Senators Johnson and Kline).

Senate Committee on Judiciary
House Committee on Judiciary

Background: The county treasurer is the receiver and collector of all taxes extended upon the tax rolls of the county and taxes on real and personal property are due and payable to the treasurer on or before a date set out in statute. After a specified amount of time has succeeded the levy of taxes, the county treasurer must proceed to collect all personal property taxes. If the treasurer is unable to collect the taxes when due, he or she will prepare papers in distraint, containing a description of the personal property, the amount of taxes, the amount of accrued interest, and the name of the owner. Current law directs the treasurer to distrain, or seize, sufficient goods and chattels belonging to the person charged with the taxes to pay the taxes. Notice is required to be posted in three public places in the county, stating when and where the property will be sold. If, in the judgment of the assessor or county treasurer, personal property is being removed beyond state lines, dissipated, sold, or disposed of so as to jeopardize collection of taxes, the treasurer will immediately prepare papers in distraint and will distrain sufficient goods and chattels belonging to the person charged with the taxes.

When the property subject to distraint is on private property, the treasurer must obtain a warrant issued by a superior court judge. A 1994 Washington Supreme Court case, *Seattle v. McCready*, held that if a warrant is issued by a magistrate without the authority to do so, it has no more validity than a warrant signed by a private citizen and cannot serve as the authority of law.

Summary: If there is probable cause to believe there is property within the county subject to distraint, any superior or district court judge in the county may, upon the request of the sheriff, county treasurer, or agent of the county treasurer, issue a warrant commanding the search for and seizure of the property described in the request for the warrant at the place described in the request for the warrant. The criminal rules of superior court and district court govern the procedure for issuance and execution and return of the warrant and for return of any property seized.

Votes on Final Passage:

Senate	45	0
House	96	1

Effective: June 7, 2006

SB 6453
C 244 L 06

Establishing a one thousand dollar minimum monthly benefit for certain plan 1 members of the public employees' retirement system and certain plan 1 members of the teachers' retirement system.

By Senators Mulliken, Pridemore, Fraser, Rockefeller, Franklin and Spanel; by request of Select Committee on Pension Policy.

Senate Committee on Ways & Means
House Committee on Appropriations

Background: The basic retirement allowance of a member Plan 1 of the Public Employees' Retirement System (PERS) or the Teachers' Retirement System (TRS) is equal to 2 percent of the member's average final compensation for each year of service credit. There is also a minimum benefit level of $32.71 per month per year of service. A member with 25 years of service is therefore eligible for a minimum benefit of $817.75 per month. With 30 years of service, the minimum benefit is $981.30 per month. These minimum benefits increase by at least 3 percent per year. The actual benefit amount received may be less than the minimum allowance if the member selected an enhanced cost-of-living adjustment or survivor benefit option.

An alternative minimum benefit of $1,000 per month was established in 2004 for members of PERS 1 and TRS 1 members who have at least 25 years of service credit and have been retired for at least 20 years. The $1,000 minimum monthly benefit, which is also subject to reductions if the member selects the enhanced cost-of-living adjustment or survivor benefit options, is not increased annually.

Summary: The $1,000 alternative minimum benefit in PERS 1 and TRS 1 is extended to members who have at least 20 years of service and who have been retired for at

least 25 years. A 3 percent annual increase is added to the $1,000 minimum benefit.

Votes on Final Passage:

Senate 45 0
House 95 0

Effective: July 1, 2006

E2SSB 6459
C 67 L 06

Supporting community-based health care solutions.

By Senate Committee on Ways & Means (originally sponsored by Senators Keiser, Brandland, Thibaudeau, Spanel, Rasmussen, Kline, Parlette and Kohl-Welles).

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

Background: Although community-based organizations focused on health care access have existed in this state for some time, in recent years they have become more active, reflecting growing concerns about the cost of care, the increased number of uninsured, and its impact on their communities. The organizations differ in size and scope, and in their approach to the problem, but typically involve a variety of community members, including businesses, health care providers, and government agencies. Services provided include assisting persons in accessing insurance, directly accessing and coordinating treatment, and pursuing improvements in the health care delivery system.

Some of these organizations in Washington had been funded in part by the Healthy Communities Access Program, an initiative of the federal Department of Health and Human Services which was recently discontinued.

Summary: The community health care collaborative grant program is established to further the efforts of community-based organizations to increase access to health care for state residents, particularly those who are employed, but uninsured or underinsured.

The administrator of the health care authority, in consultation with other relevant state agency heads, will award grants of up to five-hundred thousand dollars to nonprofit organizations serving a defined substate region. The grants will be awarded on a competitive basis based on a determination of which applicants will best serve the purposes of the grant program. In making this determination, consideration must be given to specific criteria enumerated in the bill, including the capacity of an organization and its likelihood of success, the extent to which the application reflects formal collaboration among key community members, and the potential for programs proven successful to be duplicated around the state.

Grants may be awarded only to those organizations providing at least two dollars in matching funds for each grant dollar awarded. One-half the total amount of any award will be disbursed to an organization upon its selection as a grant recipient. The remaining half will be disbursed one year later only upon a showing that the organization is satisfactorily serving the purposes of the grant program and meeting the objectives identified in its application.

By July 1, 2008, the administrator will provide the Governor and the Legislature with an evaluation of the grant program, highlighting particularly successful programs and including recommendations from the participating organizations on what the state should do to further support community-based health care access efforts.

Votes on Final Passage:

Senate 46 1
House 96 2

Effective: June 7, 2006

2SSB 6460
C 123 L 06

Increasing penalties for crimes committed with sexual motivation.

By Senate Committee on Ways & Means (originally sponsored by Senators Hargrove, Stevens, McCaslin, McAuliffe, Keiser, Rasmussen, Benton, Roach and Oke; by request of Attorney General).

Senate Committee on Human Services & Corrections
Senate Committee on Ways & Means
House Committee on Criminal Justice & Corrections
House Committee on Appropriations

Background: To commit a crime with sexual motivation means that a crime was committed, at least in part, for a person's sexual gratification.

With few exceptions, a prosecutor must file a special allegation of sexual motivation when enough admissible evidence exists to justify a finding of sexual motivation by a reasonable and objective fact-finder. The prosecutor must then prove beyond a reasonable doubt that the accused committed the crime with a sexual motivation.

A special verdict or a judicial finding of fact that the accused committed a crime with sexual motivation may have the effect of subjecting a person to penalties such as those that would inhere to someone convicted of an offense defined as a sex offense under the law. Such consequences might include ineligibility for certain sentencing alternatives, such as the First Time Offender Waiver or the Drug Offender Sentencing Alternative. Once incarcerated, he or she is not eligible for as much earned early release time as other offenders. After release, he or she must comply with the state's registra-

tion requirements and is subject to a mandatory term of community custody and mandatory Department of Corrections supervision in the community. If sentenced for a subsequent offense, the seriousness level of his or her prior sex offense will be tripled for purposes of sentencing.

Summary: A statutory sexual motivation enhancement is created for sentencing purposes. Additional time in total confinement, consecutive to all other sentencing provisions, must be served if a conviction includes a special verdict or judicial finding that the crime underlying the conviction was committed with sexual motivation.

If a person's previous sentence has included a sexual motivation enhancement, the time that must be served in total confinement for subsequent sexual motivation enhancements doubles.

If the standard sentencing range exceeds the statutory maximum sentence for the offense, the statutory maximum sentence must be the presumptive sentence unless the offender is a persistent offender. If the addition of a sexual motivation enhancement increases the sentence so that it would exceed the statutory maximum for the offense, the portion of the sentence representing the enhancement may not be reduced.

A sentencing court may impose a sentence outside the standard range (e.g., consider sexual motivation an aggravating factor, allowing imposition of a sentence up to the statutory maximum).

Time that must be served in total confinement must be calculated before earned early release time is credited.

Votes on Final Passage:

Senate	42	6
House	95	3

Effective: July 1, 2006

SB 6463
C 48 L 06

Allowing banks and savings banks to organize as limited liability companies.

By Senators Fairley and Benton.

Senate Committee on Financial Institutions, Housing & Consumer Protection
House Committee on Financial Institutions & Insurance

Background: Limited Liability Corporations (LLCs) provide flexibility in corporate formation and tax treatment, encouraging investment. Washington State currently allows many types of businesses to form as LLCs, or convert to LLCs.

Generally, banks and insurers have not been permitted to become LLCs under state law. It is expected that the Internal Revenue Service (IRS) will soon change its rules, permitting the LLC-style tax treatment of banks. This is expected to enhance capital formation for new banks, and provide a healthy business investment climate for Washington State chartered financial institutions.

Banks intending to become LLCs need to conform to standards set by the Federal Deposit Insurance Corporation (FDIC), in order to meet minimum safety and soundness standards and qualify for insurability of deposits. Regulatory oversight and strict criteria for the formation or conversion of banks and savings banks into LLCs is necessary to meet federal standards.

Summary: Banks and bank holding companies regulated under Title 30 RCW, and savings banks regulated under Title 32 RCW may form as or convert to Limited Liability Corporations, by obtaining approval of the Director of the Washington State Department of Financial Institutions (DFI). Approval is based upon meeting various criteria important to the safety and soundness of the bank or savings bank, and conforming to FDIC Regulations, including a prohibition against automatic termination, dissolution, or suspension.

Votes on Final Passage:

Senate	45	0
House	97	0

Effective: June 7, 2006

SSB 6473
C 347 L 06

Eliminating the requirement that telecommunications companies file price lists.

By Senate Committee on Water, Energy & Environment (originally sponsored by Senators Poulsen, Morton and Rockefeller).

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

Background: Competitive Classifications of Telephone Companies and Services. The Washington Utilities and Transportation Commission (Commission) may classify any company or service as "competitive," which means the company or service is subject to effective competition. Minimal regulations apply to competitive companies and services, particularly in the area of pricing.

Tariffs and Price Lists. A service not classified as "competitive" must be described in a tariff, which is a detailed document, filed with the Commission, describing the rates, terms, and conditions of service. All tariffs are subject to review by the Commission when filed, and they may be suspended before they take effect.

A service classified as "competitive" is described in a "price list." While price lists look like tariffs and are also filed with the Commission, they are not reviewed or approved by the Commission. They automatically take effect ten days after notice to the Commission and customers.

Summary: Eliminating Price Lists. The Commission's authority to require price lists of competitive companies or services will end after June 30, 2007. Companies may no longer file and maintain price lists after that date; however, a company may extend this deadline by one year subject to Commission approval.

Authority to Waive Regulatory Requirements. For companies offering competitive services, the Commission may waive different regulatory requirements for different companies if it is in the public interest.

Transition Period. A company withdrawing a price list must inform its customers about the rates, terms, and conditions of any continuing services. Unchanged rates, terms, and conditions will have the same binding effect as the previous price list. If there are changes, however, the company must provide customers with a reasonable opportunity to accept or reject any new rate, term, or condition. If a customer does not cancel service within 30 days of being notified of the changes, the customer will be deemed to have accepted the new rates, terms, and conditions.

Other Changes. The following changes are made: (1) an archaic reference to the court order that divested the Bell System is removed; (2) provisions concerning competitive companies and services are harmonized; and (3) competitive service provisions concerning accounts, financial reports, and investigations that currently exist in rule are codified.

Votes on Final Passage:

Senate	47	0
House	97	0

Effective: June 7, 2006

ESSB 6475
C 115 L 06

Authorizing alternative methods of assessment and appeal processes for the certificate of academic achievement.

By Senate Committee on Early Learning, K-12 & Higher Education (originally sponsored by Senators McAuliffe, Schmidt, Eide, Weinstein, Haugen, Berkey, Kastama, Shin, Kohl-Welles and Rasmussen; by request of Superintendent of Public Instruction).

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

Background: In 2004, the Washington State Legislature established in state law a requirement that, beginning with the Class of 2008, high school students must obtain a Certificate of Academic Achievement or a Certificate of Individual Achievement to graduate. These certificates are in addition to other state and local graduation requirements.

To obtain a Certificate of Achievement, students in the Class of 2008 and beyond must demonstrate they have met the state high school standards in reading, writing, and mathematics. Students in the Class of 2010 and beyond also must meet the standards in science. Before students can use alternative assessments to obtain a Certificate of Achievement, the Legislature must formally approve the use of any alternative assessments.

Students demonstrate they have met the state high school standards and obtain a Certificate of Academic Achievement in one of two ways:

1) by meeting the standards as measured by the Washington Assessment of Student Learning (WASL); or
2) through an alternative assessment or an appeal, if a student has not met a standard after taking the WASL twice.

The alternative assessments must be comparable in rigor to the skills and knowledge that students must demonstrate on the WASL. The Office of the Superintendent of Public Instruction (OSPI) is to develop recommendations for the assessments and appeals.

Summary: Alternative Assessment Methods. Beginning in the 2006-07 school year, OSPI must implement three objective alternative assessment methods for students to demonstrate achievement of the state standards in content areas where they were not successful on the high school WASL. A student applying for an alternative assessment must meet the eligibility criteria under current law and other eligibility criteria established by OSPI, including attendance criteria and participation in remediation or supplemental instruction as provided in the student learning plan. School districts may waive the attendance and/or remediation requirement for special, unavoidable circumstances. The three objective alternative assessment methods are as follows:

1) A comparison of the applicant's grades in applicable courses to the grades of a cohort of students in the same school who took the same courses, but who met or slightly exceeded the state standard on the high school WASL. If the applicant's grades are equal to or above the mean grades of the comparison cohort, the applicant is deemed to have met the state standard. This method cannot be used if there are fewer than six students in the cohort;
2) OSPI is directed to develop an alternative assessment method that is an evaluation of a collection of work samples prepared and submitted by the applicant and for career and technical applicants. OSPI must develop guidelines for the type and number of work samples, which can be collected from academic, career and technical, or remedial courses and can include performance tasks as well as written products. Uniform scoring criteria must be developed, and the collections must be scored at the state

or regional level using a panel of trained educators. Before implementation, OSPI must submit the scoring guidelines, protocols, and criteria to the State Board of Education (SBE) for approval; and

3) For students in an OSPI-approved career and technical program, the collection of work samples must also be relevant to the particular program; focus on the application of academic knowledge within the program; include activities or projects that demonstrate academic knowledge; and represent the knowledge and skills that individuals in that field are expected to possess. An approved program is one that leads to a recognized certificate or credential and requires a sequenced progression of intensive and rigorous courses. The applicant must also attain the certificate associated with the program in order to meet the standard on the alternative assessment.

The collection of work samples can be implemented as an alternative assessment for applicants with fewer than six students in their comparison cohort, or for students in an approved career and technical program. The collection can be implemented for other students only if formally approved by the Legislature through the appropriations act, statute, or concurrent resolution.

Additional Alternatives. A fourth alternative assessment method is also created: a student's score on the mathematics portion of the Preliminary Scholastic Assessment Test (PSAT), Scholastic Assessment Test (SAT), or American College Test (ACT) can be used as an alternative assessment for demonstrating that the student has met the mathematics standards to earn a CAA for high school graduation. The SBE identifies the scores students must achieve on these tests to meet the state standard for mathematics.

The SBE must submit the proposed scores to the Legislature for formal approval, with the first scores submitted by December 1, 2006. School districts reimburse students for testing costs if they take the tests in order to use them as an alternative assessment.

OSPI must study the feasibility of using existing mathematics assessments in languages other than English as an additional alternative assessment option. The study must include cost estimates for translating the 10th grade assessment and scoring the assessments.

OSPI Implementation. By September 2006, OSPI must develop informational materials that describe the collection of evidence, including examples of work that meets the state standard and scoring criteria, and encourage students to begin creating a collection if they may seek to use it as an alternative assessment.

By June 1, 2006, OSPI must implement a process for students to appeal their WASL scores. By January 1, 2007, OSPI must also implement guidelines and appeals processes for waiving CAA requirements for students who transfer to a public school in their junior or senior year or who have special unavoidable circumstances.

OSPI must develop a list of approved career and technical education programs that qualify for the objective alternative assessment for career and technical students.

Transcript Information. The requirement that the standardized high school transcript contain a student's highest scale score in each content area of the WASL is removed. The scholar designation for students who achieve level four the first time they take the WASL is removed. The transcript notes whether a student received a CAA or a CIA, but no longer reflects whether these were achieved through the WASL or an alternative assessment.

Report to Legislature. By September 10, 2006, OSPI must report in detail to the Education Committees of the Legislature on the following: the results of the pilot testing of the alternative assessments; guidelines, protocols and procedures used by OSPI in implementing the alternative assessment, particularly the collection of evidence; proposed criteria, rubrics and methodology for scoring the collection of evidence; the description of the training provided for school districts and teachers; the results of the feasibility study for mathematics assessments in other languages; and an updated estimate of the likely number of eligible students.

By December 1, 2006, and February 1, 2007, OSPI must provide the Legislature with an update on the number of students using or likely to be eligible and participating in an alternative assessment method.

By September 1, 2009 the Washington Institute for Public Policy must submit its finding to the Legislature on the results of an independent evaluation of the reliability, validity and rigor of the alternative assessment methods.

Votes on Final Passage:

Senate	33	10	
House	96	2	(House amended)
Senate	38	8	(Senate concurred)

Effective: June 7, 2006

E2SSB 6480
C 321 L 06

Modifying public works apprenticeship utilization requirements.

By Senate Committee on Transportation (originally sponsored by Senators Kohl-Welles, Haugen, Brown and Keiser; by request of Department of Transportation).

Senate Committee on Labor, Commerce, Research & Development
Senate Committee on Transportation
House Committee on Commerce & Labor

Background: Executive Order 00-01 required that apprentices in programs approved by the Apprenticeship

and Training Council make up at least 10 percent of the total labor hours on public works projects of more than $2 million awarded after July 1, 2000. Over time, the percentage increased and the threshold amount decreased. In 2005, the Executive Order was codified and apprentices were required to account for 15 percent of the total labor hours on projects of more than $1 million.

Apprenticeship utilization percentages apply to State agencies under the authority of the Governor. The Department of Transportation (DOT), four-year institutions of higher education, and agencies headed by a separately elected public official are exempt for this requirement. Agency directors may adjust the apprenticeship utilization percentage, with prior review by the Governor, under certain conditions, such as a shortage of apprentices in a specific geographic area. The Department of General Administration and the Department of Labor and Industries are directed to provide information and technical assistance to affected agencies.

Summary: Effective July 1, 2007, DOT is no longer exempt from apprenticeship use requirements. DOT's required percentage use of apprenticeship labor hours is phased in over three years. Beginning July 1, 2007, DOT is required to use 10 percent apprenticeships on projects over $5 million; 12 percent on projects over $3 million beginning July 1, 2008; and 15 percent on projects over $2 million beginning July 1, 2009.

The Secretary of DOT is required to adjust the apprenticeship utilization percentage requirement if there is a demonstrated lack of apprentices in a specific geographic area, or a disproportionately high ratio of material costs to labor hours. The Secretary must also establish and meet regularly with an advisory committee to develop the process to be used to adjust such requirements and discuss other implementation issues. The committee is to have state-wide representation, with equal numbers of representatives of contractors and labor, and at least one representative of a contractor with less than 35 employees. A report from the advisory committee on the impact of apprenticeship requirements on, and the availability of apprentices for, transportation projects statewide is due to the legislature by January 1, 2008.

The Washington State Apprenticeship Training Council is directed to conduct training and outreach work with returning veterans to assist with the transition from military service to the construction industry.

Votes on Final Passage:

Senate	30	11
House	71	27

Effective: June 7, 2006

SB 6504
C 322 L 06

Prohibiting public hospital district employees from serving as commissioners.

By Senators Berkey and Mulliken.

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

Background: Public Hospital District commissioners are responsible for overseeing the hospital district's general policies and organization with respect to the operation of the district. The board of commissioners adopts the necessary general policies to accomplish this. Commissioners are required to take action by motion or resolution.

Hospital district commissioners serve six year terms of office. Only a registered voter who resides in the commissioner district may be a candidate for, or hold, office.

Summary: A current employee of a public hospital district may not hold office as a commissioner.

Votes on Final Passage:

Senate	47	0
House	97	0

Effective: June 7, 2006

ESSB 6508
C 338 L 06

Developing minimum renewable fuel content requirements and fuel quality standards in an alternative fuels market.

By Senate Committee on Water, Energy & Environment (originally sponsored by Senators Rasmussen, Poulsen, Kline, McCaslin, Brown, Oke, Schmidt, Swecker, Finkbeiner and Kohl-Welles; by request of Governor Gregoire).

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

Background: A Renewable Fuel Standard (RFS) requires that a certain percentage of motor fuel be obtained from renewable sources such as ethanol or biodiesel. Currently, five states, including California, Ohio, Hawaii, Minnesota, and Montana have either a RFS or have passed legislation requiring state governmental agencies to use biodiesel.

Biodiesel is non-petroleum diesel fuel produced from renewable resources such as vegetable oils, animal fats, and recycled cooking oils. It can be blended with petroleum diesel or used as a pure product (known as B100). According to the United States Department of

Energy, biodiesel blends of up to 20 percent (B20) can be used in nearly all diesel equipment with little or no engine modifications. Blends with higher levels of biodiesel can also be used in many engines built since 1994 with little or no engine modification.

Ethanol is produced from a variety of feed stocks such as corn, wheat, barley, potatoes, sugarcane, and straw and tree cellulose. In the United States, most ethanol is made from corn. The most common blends are:

- E10 - 10 percent ethanol and 90 percent unleaded gasoline. E10 is approved for use in any vehicle sold in the U.S. In 2004, about one-third of America's gasoline was blended with ethanol, most in this 10 percent variety.
- E85 - 85 percent ethanol and 15 percent unleaded gasoline. E85 is an alternative fuel used in flexible fuel vehicles (FFVs). When E85 is not available, FFVs can operate on gasoline or any ethanol blend up to 85 percent.

The Department of Agriculture's (DOA) fuel sampling, testing, and enforcement program adopts *American Society for Testing and Materials* (ASTM) and Environmental Protection Agency (EPA) fuel standards. EPA standards prevail if there is a conflict. The DOA may establish a laboratory for testing motor vehicle fuels.

All state agencies are encouraged to use a fuel blend of 20 percent biodiesel and 80 percent petroleum diesel in diesel-powered vehicles and equipment. Effective June 1, 2006, agencies complying with the EPA's ultra-low sulfur diesel mandate for on-highway diesel fuel must use at least 2 percent biodiesel as an additive for lubricity. The Governor's Executive Order 05-01 requires state agencies to use a 20 percent biodiesel blend by September 1, 2009, and encourages agencies to use a 5 percent blend as soon as practicable.

Summary: The Legislature intends that consumers have a choice of fuels ranging from zero renewable content to completely renewable fuel.

Certain special fuel licensees must provide evidence to the Department of Licensing (DOL) that at least 2 percent of total annual diesel fuel sales are biodiesel fuel sales, whenever the earlier of two events occur: (1) The Director of the DOA determines that feedstock grown in Washington can satisfy the 2 percent requirement; or (2) on November 30, 2008. The reporting level rises to 5 percent biodiesel sales when the Director of DOA determines that both in-state oil seed crushing capacity and feedstock grown in Washington can satisfy 3 percent of total annual diesel fuel sales.

Beginning December 1, 2008, certain motor vehicle fuel licensees must provide evidence that at least 2 percent of all gasoline sold in Washington is denatured ethanol.

All gasoline sold in Washington must contain higher percentages of denatured ethanol if the Director of the Department of Ecology (DOE) determines that ethanol content greater than 2 percent will not jeopardize continued attainment of federal Clean Air Act standards, and the Director of DOA determines that sufficient raw materials are available within Washington to support economical production of ethanol at higher levels. Nothing limits the use of E85, or the use of high octane gasoline without ethanol, for use by aircraft.

DOA decisions to change fuel content levels must be published and will not take effect for at least 180 days. The Director must adopt rules for enforcing and carrying out the RFS for both biodiesel and ethanol. DOA rules must ensure that biodiesel refiners are responsible for meeting ASTM standards when providing biodiesel fuel into the distribution system. Likewise, diesel refiners are responsible for meeting ASTM standards when providing diesel into the distribution system. Biodiesel rules must include fuel stability standards when national or international standards have been adopted.

DOL must ensure that information submitted by fuel licensees is combined or aggregated without releasing identifying individual company information. Fuel licensees reporting under this act are exempt from existing criminal penalties. Civil penalties may be imposed for violations.

The Director of DOA may optionally contract with a laboratory for testing. The Director of DOA must require fuel pumps offering biodiesel or ethanol blends to be identified by a label stating the content level.

The Director of DOA must establish a Biofuels Advisory Committee to advise the Director in implementing or suspending the minimum renewable fuel content requirements. The committee will advise the Director on: logistical, technical, and economic issues; the potential for credit trading; compliance and enforcement issues; tracking and reporting requirements; and other fuels produced from nonpetroleum renewable sources, besides biodiesel or ethanol, which could achieve the goals of the act. The Director must make recommendations to the Legislature and the Governor by September 1, 2007.

Effective June 1, 2009, 20 percent of all diesel purchased and used by state agencies for operating diesel-powered vehicles, vessels, and construction equipment must be biodiesel. If requested by any state agency, the Department of General Administration (GA) must assist those agencies by coordinating the purchase and delivery of biodiesel. GA may use long-term contracts of up to 10 years when purchasing from in-state suppliers who use predominately in-state feedstocks.

All state agencies using biodiesel fuel must file quarterly reports with GA documenting any problems encountered and describing how they were resolved. GA must analyze these reports and report its findings and recommendations to the Governor and the Legislature within 60 days after each reporting period. The Gover-

nor must consider these reports in determining whether to temporarily suspend minimum renewable fuel content standards.

The Governor may, by executive order, suspend all or portions of the minimum renewable fuel content requirements if they are temporarily technically or economically infeasible or pose a significant risk to public safety.

If, by November 30, 2008, the Director of DOA determines that the state's diesel fuel supply comprises at least 10 percent biodiesel made predominantly from Washington feedstock, and the goals of this act have been achieved, the Governor and the Legislature must be notified. Upon notification, the Governor must suspend applicability of the minimum fuel content requirements by executive order.

If, by November 30, 2008, the Director of DOA determines that the state's gasoline fuel supply comprises at least 20 percent ethanol made predominantly from Washington feedstock, without jeopardizing continued attainment of the federal Clean Air Act's National Ambient Air Quality Standard for ozone pollution, and the goals of this act have been achieved, the Governor and Legislature must be notified. Upon notification, the Governor must suspend applicability of the minimum fuel content requirements by executive order.

After November 30, 2008, if the Director of DOA determines the goals of the act have been accomplished notice must be given to the Governor and the Legislature. The Governor must then prepare executive request legislation repealing the applicable minimum fuel content requirement.

"Diesel" fuel is defined to mean special fuel and dyed special fuel. "Biodiesel fuel" is defined and the definition of "motor fuel" is revised to include biodiesel.

Votes on Final Passage:

Senate	27	20	
House	68	30	(House amended)
Senate	29	19	(Senate concurred)

Effective: July 1, 2006

SSB 6512
C 323 L 06

Enhancing air quality at truck stops.

By Senate Committee on Water, Energy & Environment (originally sponsored by Senators Fraser, Pridemore, Honeyford, Poulsen, Mulliken, Regala, Rockefeller, Delvin and Kline).

Senate Committee on Water, Energy & Environment
Senate Committee on Ways & Means
House Committee on Finance

Background: The air quality around idling heavy duty diesel vehicles is known to contribute to unhealthy conditions by releasing volatile organic compounds, carbon monoxide, carbon dioxide, nitrogen oxides, and particulates. These idling vehicles also contribute to driver fatigue through exposure to noise, vibration, and elevated levels of carbon monoxide and other pollutants.

Several states have begun programs to provide infrastructure to support the electrification of truck stops. The projects alleviate the need for trucks to idle for long periods of time. These projects are generally of two types, "on-board" and "stand-alone" electrification projects.

On-board electrification projects require the truck or vessel to be equipped with the necessary components to accept electrical power. Stand-alone projects provide an independent system that supplies the vehicle's needs for heating, ventilation, and air conditioning without modification to the vehicle.

The business and occupation (B&O) tax is Washington's major business tax. The B&O tax is imposed on the gross receipts of business activities conducted within the state. The state retail sales tax rate is 6.5 percent and is imposed on the retail sale of most items of tangible personal property and some services. The use tax is imposed on the use of an item in this state when the acquisition of the item has not been subject to sales tax. Use tax is equal to the sales tax rate multiplied by the value of the property used.

Summary: A business and occupation tax deduction is provided for amounts received from the retail sale, lease, or rental of auxiliary power to heavy duty diesel vehicles through on-board or stand-alone electrification systems.

A sales and use tax exemption applies to sales and use of machinery and equipment integral and necessary for the retail sales, lease, or rental of auxiliary power to heavy duty diesel vehicles through on-board or stand-alone electrification systems. An exemption is also provided for charges made for labor and services with respect to the construction of these facilities.

Sales and use tax exemptions are also provided for parts and labor necessary to enable heavy duty diesel trucks to accept power for onboard electrification systems.

The tax incentives expire on July 1, 2015.

Votes on Final Passage:

Senate	47	0
House	95	3

Effective: June 7, 2006

SSB 6519
C 129 L 06

Requiring level II and III sex offenders to report in person every ninety days.

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Benton, Benson, Schoesler, Carrell, Esser, Jacobsen, Pflug, Mulliken, Johnson, Honeyford, Sheldon, Roach, Kline, Oke, Rasmussen and Keiser).

Senate Committee on Human Services & Corrections
House Committee on Criminal Justice & Corrections

Background: In 1990, the Legislature enacted the Community Protection Act, which created one of the first sex offender registration laws in the country. A person convicted of a sex or kidnapping offense must register with the county sheriff of the county in which he lives. The person subject to the registration requirements must provide such information as his or her name, address, date and place of birth, place of employment, crime of conviction, date and place of conviction, aliases, Social Security number, photograph, and fingerprints. He or she must also notify the county sheriff if he or she is enrolled in public or private school or in an institution of higher education.

A person with a fixed residence need not go to the county sheriff's office to check in or to re-register. However, registered persons who are not sexually violent predators must respond annually to a mailing to verify their address, and persons classified as sexually violent predators must do this every 90 days. Homeless offenders subject to registration requirements must check in with the county sheriff once a week.

A person who knowingly fails to register or to notify the sheriff, or who changes his or her name without notifying the sheriff or the Washington State Patrol, is guilty of the crime of failure to register.

If the crime requiring registration was a felony, failure to meet the registration requirements is a class C felony. The seriousness of this offense is not ranked for purposes of sentencing and may include up to 12 months in jail, a fine of up to $10,000, or both. If the crime requiring registration was a misdemeanor or a gross misdemeanor, failure to register is a gross misdemeanor, punishable by up to 12 months in jail, a fine of $5,000, or both.

Summary: Persons classified by the End of Sentence Review Commission or the county sheriff as either a Level II and Level III sex offender must report to the county sheriff's office, in person, every 90 days during normal business hours. A person may petition the superior court in the county where he or she lives or reports to be relieved of the duty to report every ninety days. The court must grant the petition if the petitioner can show that he or she has complied with the reporting requirement for a period of at least five years and has not been convicted of a criminal violation for failure to register for at least five years and if the court determines that the reporting no longer serves a public safety purpose.

The county sheriff may take a photograph at any time to update the registered person's file.

Votes on Final Passage:

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

Effective: June 7, 2006
September 1, 2006 (Section 2)

SSB 6527
C 160 L 06

Extending the negotiation period for the Milwaukee Road trail.

By Senate Committee on Transportation (originally sponsored by Senators Jacobsen, Mulliken, Haugen and Sheldon; by request of Department of Transportation).

Senate Committee on Transportation
House Committee on Transportation

Background: In 1980, the Milwaukee Road (railroad) declared bankruptcy, sold some of its properties, and salvaged its track. In 1981, the Legislature appropriated $3.5 million to purchase the right of way in eastern Washington.

The right of way owned by the state was eventually put under the management and control of three different state agencies: State Parks and Recreation Commission, Department of Natural Resources (DNR), and the Department of Transportation (WSDOT). It was originally envisioned that the entire right of way would form a cross-state recreational trail.

During the 1995 legislative interim, the Legislative Transportation Committee convened a Freight Rail and Freight Mobility Task Force to examine the old Milwaukee Road corridor's potential for relieving freight congestion. The task force recommended resuming freight rail service over the portion of the old Milwaukee Road railroad running from Ellensburg to Lind.

In order to resume rail service, a unified transportation corridor was created. State-owned portions of land running from Ellensburg to Lind were consolidated into a single owner, WSDOT. The WSDOT was charged with management and control of the corridor, and was directed to negotiate a franchise agreement with a qualified rail carrier to operate service over the line.

Since the new transportation corridor would interfere with the cross-state trail use, the State Parks and Recreation Commission was directed to establish a "replace-

ment trail" once the WSDOT entered into a franchise agreement for the provision of rail service in the new corridor.

If WSDOT does not enter into a franchise agreement by July 1, 2006, the legislation creating this consolidated transportation corridor sunsets, and management of the trail between Ellensburg and Lind reverts back to the three state agencies.

Summary: The deadline for WSDOT to enter into a franchise agreement for rail service over the Ellensburg to Lind portion of the old Milwaukee Road corridor is extended by three years.

If an agreement is not entered into by July 1, 2009, the transportation corridor between Ellensburg and Lind will revert to the prior ownership and management by the WSDOT, State Parks and Recreation Commission, and DNR.

The portion of the rail corridor between Lind and the Idaho border is transferred from WSDOT to the State Parks and Recreation Commission effect as of the effective date of the act.

The DNR is authorized to transfer management authority of the transportation corridor to the State Parks and Recreation Commission, upon mutual agreement of the agencies.

Votes on Final Passage:

Senate	46	0	
House	95	3	(House amended)
Senate	43	0	(Senate concurred)

Effective: June 7, 2006

SSB 6528
C 324 L 06

Permitting roadside tire chain businesses.

By Senate Committee on Transportation (originally sponsored by Senators Mulliken, Kastama, Benson, Oke, Esser, Berkey and Sheldon; by request of Department of Transportation).

Senate Committee on Transportation
House Committee on Transportation

Background: During certain weather conditions involving ice and snow, the Department of Transportation (DOT) may require vehicles traveling on mountain passes to use tire chains. In some cases, drivers are not familiar with how to attach tire chains and/or would prefer someone else to perform the task of tire chain attachment. Current law is silent on the practice of installing tire chains within DOT right of way and charging a fee for this service.

Other states, such as California, permit businesses to operate in the state highway right of way that offer tire chain installation and removal services for a fee.

Summary: DOT may issue permits to allow the installation or removal of tire chains on motor vehicles within the DOT right of way. Tire chains may only be installed or removed at locations designated in the permit. A fee may be charged to drivers for this service.

DOT may determine how many permits are desirable to provide maximum convenience and safety to traffic and must adopt other implementation rules, including requiring permittees to wear reflective clothing and use appropriate signage.

DOT liability protection provisions are included in this bill.

Votes on Final Passage:

Senate	44	0	
House	97	0	(House amended)
Senate	46	0	(Senate concurred)

Effective: June 7, 2006

SB 6531
C 325 L 06

Preserving remedies when limited liability companies dissolve.

By Senators Weinstein, Fraser and Kline.

Senate Committee on Judiciary
House Committee on Judiciary

Background: When a limited liability company dissolves, it must pay, or make reasonable provisions to pay, all claims and obligations known to the limited liability company, whether or not the identity of the claimant is known. If there are insufficient assets, the claims and obligations must be paid or provided for according to their priority and, among claims and obligations of equal priority, ratably to the extent of assets available.

Summary: When a limited liability company dissolves, an action for claims or rights against it must be commenced within three years after the effective date of dissolution in order to survive. This includes claims or rights, or liability incurred, prior to, or after, dissolution.

Votes on Final Passage:

Senate	41	0
House	97	0

Effective: June 7, 2006

SSB 6533
C 245 L 06

Providing a business and occupation tax credit for syrup taxes paid by a business.

By Senate Committee on Ways & Means (originally sponsored by Senators Prentice, Zarelli, Schoesler, Benton and McCaslin).

Senate Committee on Ways & Means
House Committee on Finance

Background: The business & occupation (B&O) tax is levied for the privilege of doing business in Washington. The tax is levied on the gross receipts of all business activities (except utility activities) conducted within the state. There are generally no deductions for the costs of doing business.

A tax of $1.00 per gallon is imposed on each wholesale sale and each retail sale of syrup used in making carbonated beverages in this state. Successive sales of previously taxed syrup are exempt. The tax is collected by wholesalers from retail purchasers or directly by retailers. Receipts from the tax are deposited into the violence reduction and drug enforcement account (VRDE).

Summary: A buyer of carbonated beverage syrup to be used by the buyer in making carbonated beverages that are sold by the buyer may claim a credit against business and occupation tax for carbonated beverage syrup taxes paid after July 1, 2006, in respect to the syrup. The credit is equal to 25 percent of the amount paid from July 1, 2006, through June 30, 2007, 50 percent from July 1, 2007, through June 30, 2008, 75 percent from July 1, 2008, through June 30, 2009, and 100 percent after June 30, 2009.

Credits in excess of B&O tax paid may be carried forward to future reporting periods for a maximum of one year.

Votes on Final Passage:

Senate	43	5	
House	84	13	(House amended)
Senate	41	5	(Senate concurred)

Effective: July 1, 2006

ESB 6537
C 49 L 06

Modifying requirements for the direct sale of wine to Washington state consumers.

By Senators Kohl-Welles, Parlette, Hewitt, Honeyford, Keiser and McAuliffe; by request of Liquor Control Board.

Senate Committee on Labor, Commerce, Research & Development
House Committee on Commerce & Labor
House Committee on Appropriations

Background: Out-of-state wineries can ship two cases of wine per year to a Washington resident who is 21 or older but only if the state in which the winery is located has a reciprocal shipping agreement with Washington. Out-of-state wineries must first obtain a license from the Liquor Control Board (LCB) before they can ship wine to Washington residents. No taxes are collected on these shipments.

The shipping container used to ship wine from an out-of-state winery must be clearly labeled to indicate that the package cannot be delivered to a person under 21 years of age or to an intoxicated person.

The LCB must revoke an out-of-state winery's shipper license if the winery, shipper, or person in this state advertises for or solicits consumers to buy its wine.

In May 2005, the United States Supreme Court, in *Granholm v. Heald*, ruled that a state cannot prohibit out-of-state wineries from delivering wine to a resident of a state if it allows in-state wineries to do so. To allow otherwise violates the Commerce Clause of the U.S. Constitution.

Summary: Any properly licensed wine manufacturer, whether licensed by Washington or another state, may ship its wine to a Washington resident who is 21 or older. However, before the wine can be shipped, the winery must obtain a wine shipper's permit or be licensed as a domestic winery.

To qualify for a wine shipper's permit, the winery must meet the following requirements: (1) operate a winery located in the United States; (2) provide the LCB a copy of its valid license to manufacture wine; (3) certify that it holds all necessary state and federal licenses; and (4) register with the Department of Revenue (DOR). The LCB may charge a fee to issue the permit. Wineries that hold a certificate of approval are deemed to hold a wine shipper's permit.

Holders of a wine shipper's permit must pay the wine liter tax and collect and remit to DOR all applicable state and local taxes on all sales of wine delivered to buyers in this state. The prior requirements regarding packaging are continued for holders of wine shippers permits. Out-of-state wineries selling to Washington residents must pay the same taxes on wine that are paid by distributors, but only on wine sold and shipped directly to Washington residents.

Domestic wineries are included in the requirement that out-of-state wineries must file a monthly report with LCB on the previous month's shipments. Wineries may advertise but the advertisement must include either the wine shipper's permit number, the certificate of approval number, or the in-state winery's license number.

Votes on Final Passage:

Senate	47	0
House	97	1

Effective: June 7, 2006

SB 6539
C 85 L 06

Changing the formula cap on spirits, beer, and wine restaurant licenses.

By Senators Kohl-Welles, Parlette and Keiser; by request of Liquor Control Board.

Senate Committee on Labor, Commerce, Research & Development
House Committee on Commerce & Labor

Background: When liquor by the drink was established by state law in 1949, a statutory limit was set to control the number of establishments that could be licensed for the purpose of selling liquor by the drink. The limit is a formula based upon one license for every 1500 persons.

In June 2005, the number of spirits, beer, and wine restaurant licenses issued across the state was 4108. This number is within 200 licenses of the cap. At the current rate of growth in this license category, the cap will be reached in the next year or so. Once the cap is reached, the Liquor Control Board (LCB) cannot grant license applications for this type of license regardless of the location of the premises.

Summary: The total number of spirits, beer, and wine restaurant licenses that can be issued in the state of Washington must not exceed one license for every 1450 persons in the state.

Votes on Final Passage:

Senate	45	2
House	97	0

Effective: June 7, 2006

SSB 6540
C 359 L 06

Concerning the processing of liquor licenses.

By Senate Committee on Labor, Commerce, Research & Development (originally sponsored by Senators Kohl-Welles, Parlette and Keiser; by request of Liquor Control Board).

Senate Committee on Labor, Commerce, Research & Development
House Committee on Commerce & Labor

Background: The Liquor Control Board (LCB) has authority to issue temporary licenses for 60 days which allows the applicant to sell liquor pending the processing of the permanent license. Under the current language, it is not clear whether the temporary license can be issued for premises not previously licensed to sell liquor.

For every license application, the LCB is required to notify local government and certain entities (schools, churches, and public institutions) located within 500 feet of the premises that an application for a liquor license has been received. These entities have 20 days to submit written comment, including objections to the issuance of the license.

The term "public institution" is not defined in statute and has been broadly interpreted to apply to post offices, fire stations, and state agencies in addition to schools and higher education institutions.

The statute currently requires that written notice to schools, churches, and public institutions be sent by certified mail.

The LCB is prohibited from accepting an application from a sole proprietor until he or she has resided in Washington for at least 30 days. It usually takes longer than 30 days to process an application.

Summary: The LCB can issue a temporary liquor license to operate licensed premises to an operator who was not previously licensed or who is not continuing the operation of a previously licensed facility.

The LCB may extend the 20 day time period for submitting written objections to the issuance of a liquor license.

The LCB must provide notice to schools whose main entrances, rather than the boundary, are within 500 feet of the establishment applying for a license.

The term "public institution" is clarified to include higher education institutions, parks, community centers, libraries, and transit centers.

The LCB must provide notice of the issuance of a liquor license with some kind of receipt verification.

A sole proprietor must reside in Washington for 30 days prior to receiving a liquor license.

Votes on Final Passage:

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

Effective: June 7, 2006

SB 6541
C 246 L 06

Regarding appeal bond requirements against signatories of the tobacco master settlement agreement.

By Senators Prentice and Zarelli.

Senate Committee on Ways & Means
House Committee on Appropriations

Background: In 1996, the state of Washington brought suit against the major tobacco manufacturing companies, seeking reimbursement for costs incurred in treating tobacco-related illnesses as well as damages for violations of consumer protection and anti-trust laws. In 1998, 46 states, including Washington, reached a

national settlement with the five largest tobacco manufacturers. 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. In 2002, the Legislature created the Tobacco Settlement Authority to securitize a portion of the state's tobacco settlement revenues by selling revenue bonds backed by a portion of the settlement proceeds.

Under statute and court rules, a defendant in a civil proceeding may stay the execution of a civil judgement, pending an appeal, by posting with the court a surety bond in double the amount of the court judgement.

Summary: In any civil litigation involving a tobacco manufacturer participating in the national master tobacco settlement agreement, the surety bond to be required to stay execution of judgement must not exceed one hundred million dollars, regardless of the value of the judgement, unless the court finds that the party is dissipating assets to avoid payment of the judgement.

Votes on Final Passage:

Senate	45	2	
House	87	11	(House amended)
Senate	44	4	(Senate concurred)

Effective: June 7, 2006

SB 6545
C 326 L 06

Removing the minimum height requirement for the attachment of vehicle license plates.

By Senators Sheldon, Esser, Benson and Haugen; by request of Washington State Patrol.

Senate Committee on Transportation
House Committee on Transportation

Background: Current law requires that vehicle license plates be attached conspicuously to the front and rear of the vehicle for which they are issued. License plates must be mounted horizontally at a distance of not less than one foot nor more than four feet from the ground. The state patrol may grant permission to deviate from the license plate mounting requirements if compliance with the requirements is impossible due to the body construction of the vehicle.

Many modern vehicles are manufactured with license plate mounting surfaces that are less than one foot from the ground. Despite receiving many requests to waive front license plate attachment requirements based upon vehicle construction, Washington State Patrol (WSP) has declined to grant the requested waivers citing front license plates as an important identification tool for law enforcement purposes.

Summary: Changes are made to the attachment requirements for vehicle license plates to permit mounting license plates closer to the ground than previously allowed.

Vehicle license plates must be placed conspicuously on the vehicle for which they are issued at a distance of not more than four feet from the ground.

Votes on Final Passage:

Senate	44	0
House	96	1

Effective: June 7, 2006

SB 6549
C 50 L 06

Modifying commercial vehicle provisions.

By Senators Benson, Jacobsen, Mulliken and Berkey; by request of Washington State Patrol.

Senate Committee on Transportation
House Committee on Transportation

Background: The operation of commercial motor vehicles is regulated by state and federal law. The state's failure to comply with federal regulations pertaining to operators of commercial motor vehicles may result in decertification of Washington's Commercial Driver's License (CDL) program and a loss of federal transportation funds, and Washington drivers may be prohibited from operating commercial motor vehicles in interstate commerce. Washington and federal definitions of "gross vehicle weight rating" and "gross combined weight rating" differ as follows:

- Under current Washington law, the registered gross weight of a vehicle may be substituted for the "gross vehicle weight rating" where the maximum loaded weight cannot be determined. The relevant federal definition of "gross vehicle weight rating" does not allow substitution of the registered gross weight of the vehicle, and
- Under current Washington law, the definition of "gross vehicle weight rating" (GVWR) encompasses the maximum loaded weight of a single or a combination or articulated vehicle. Current Washington law acknowledges that the GVWR of a combination or articulated vehicle is commonly referred to as the "gross combined weight rating" or GCWR, and defines GCWR as the GVWR of the power unit plus the GVWR of the towed unit or units. The federal definition of "gross vehicle weight rating" is limited to the maximum loaded weight of a single vehicle. Under federal law, combination or articulated vehicles are referenced in only the separate definition of "gross combined weight rating."

An engine compression brake device is any device that uses the engine and transmission to impede the forward motion of the motor vehicle by compression of the engine. Under current law, use of compression brakes is

prohibited unless an emergency exists or the vehicle is equipped with a noise muffler that reduces noise to the levels specified. The Washington State Patrol must establish rules for enforcing restrictions on the use of compression brakes.

Summary: The definition of "gross vehicle weight rating" (GVWR) does not permit substitution of the registered gross weight of the vehicle if the maximum loaded weight cannot be determined. The definition of gross vehicle weight rating refers to the weight of a single vehicle. Combined or articulated vehicles are included only in the definition of gross combined weight rating. Actual gross weight will be used if the GVWR of a unit cannot be determined. The actual gross weight capacity will be used in the case of a vehicle that has been structurally modified to carry a heavier load.

Definitions of "commercial motor vehicle" include metric equivalents. The definition of "commercial motor vehicle" for purposes of vehicle inspection is limited to certain vehicles used on highway(s) in interstate or intrastate commerce, and includes a vehicle with a carrying capacity of more than eight passengers if passengers are transported for profit, and a vehicle with a carrying capacity of more than fifteen passengers.

Restrictions on the use of compression brakes are limited to certain vehicles that are registered and domiciled in Washington State. Use of compression brakes is prohibited unless the vehicle is equipped with a noise muffler, other than a turbocharger; exceptions for emergency use of compression brakes are eliminated.

The requirement that Washington State Patrol establish rules for enforcing restrictions on the use of compression brakes is eliminated.

Votes on Final Passage:

Senate 44 0
House 96 2

Effective: June 7, 2006

SSB 6552
C 327 L 06

Modifying commercial driver's license provisions.

By Senate Committee on Transportation (originally sponsored by Senators Benson, Haugen, Mulliken, Berkey and Sheldon; by request of Department of Licensing).

Senate Committee on Transportation
House Committee on Transportation

Background: The operation of commercial motor vehicles is regulated by state and federal law. The state's failure to comply with federal regulations pertaining to operators of commercial motor vehicles may result in decertification of the Washington's Commercial Driver's License (CDL) program and a loss of federal transportation funds, and Washington drivers may be prohibited from operating commercial motor vehicles in interstate commerce.

A federal audit conducted in November 2004 found Washington out of compliance with several federal regulations pertaining to operators of commercial motor vehicles.

Summary: The following changes are made to the statutes governing commercial drivers' licenses and motor vehicles:

- A court must immediately forward an abstract of court records pertaining to certain convictions or traffic infractions to the Department of Licensing;
- The definition of conviction for general purposes of motor vehicle law is expanded to include the payment of court costs or pleas of *nolo contendre* ("no contest"). The definition of "conviction" for CDL purposes is distinct from the definition of "conviction" for general motor vehicle purposes, and equivalent to the federal definition of "conviction" for CDL purposes;
- The definition of "gross vehicle weight rating" (GVWR) does not permit substitution of the registered gross weight of the vehicle if the maximum loaded weight cannot be determined. The definition of gross vehicle weight rating refers to the weight of a single vehicle. Combined or articulated vehicles are included only in the definition of gross combined weight rating. Actual gross weight will be used if the GVWR of a unit cannot be determined. The actual gross weight capacity will be used in the case of a vehicle that has been structurally modified to carry a heavier load;
- The definition of "out-of-service order" is clarified and made equivalent to the federal definition of "out-of-service order";
- Active duty military personnel operating commercial motor vehicles for military purposes are exempted from CDL requirements;
- The circumstances under which a person is disqualified from driving a commercial vehicle are expanded to include: 1) driving noncommercial vehicles while having a certain blood alcohol concentration; and 2) refusing to submit to drug tests;
- Disqualification periods imposed must be in addition to any other previous period of disqualification in the following cases: 1) upon conviction of a third or subsequent serious traffic violation while driving a commercial vehicle; or 2) upon conviction of reckless driving where there have been two or more prior serious traffic violations;
- Disqualification periods based upon a determination that a person's driving is an imminent hazard must be served concurrently with certain other disqualification periods that are imposed simultaneously; and

- Deferral of court findings or order entries may not be granted to a person who was operating a commercial vehicle at the time of the traffic violation.

Votes on Final Passage:

Senate	41	0	
House	97	0	(House amended)
Senate	44	0	(Senate concurred)

Effective: June 7, 2006

SSB 6555
PARTIAL VETO
C 328 L 06

Providing research and services for special purpose districts.

By Senate Committee on Ways & Means (originally sponsored by Senators Prentice, Haugen, Mulliken, Berkey, Kastama and Rasmussen).

Senate Committee on Ways & Means
House Committee on Local Government
House Committee on Appropriations

Background: The Municipal Research Council provides research services to counties and cities and towns. A portion of the liquor tax is deposited into the county research services account and the city and town research services account. The amounts deposited are specified in the biennial operating appropriation act. The funds must only be used to support the research services provided by the council to the respective category of local government.

Summary: The bill adds special purpose districts as a category of local government that may be served by the Municipal Research Council. An additional portion of the liquor tax is transferred to the new special purpose district research services account. The amount would be specified in the biennial appropriations act. Funds from this account must only be spent on research for special purpose districts. The Municipal Research Council must report on the consulting and research services provided to special purpose districts to the Joint Legislative and Audit Review Committee by June 30, 2010.

Votes on Final Passage:

Senate	47	0	
House	98	0	(House amended)
Senate	45	0	(Senate concurred)

Effective: June 7, 2006

Partial Veto Summary: The Governor vetoed section 3 which provided funding for the program through a change in the distribution of Liquor Revolving Fund Revenues. The Governor also vetoed section 139 of the operating budget (ESSB 6386) which appropriated these funds.

VETO MESSAGE ON SSB 6555

March 29, 2006

To the Honorable President and Members,
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning, without my approval as to Section 3, Substitute Senate Bill No. 6555 entitled:

"AN ACT Relating to research and services for special purpose districts."

This bill would allow the Municipal Research Council (MRC) to contract for the provision of research and services to special purpose districts. Funding for these services would be provided through a change in the distribution of Liquor Revolving Fund revenues.

The MRC currently provides its services to cities and counties. Those services are funded with revenues from the Liquor Revolving Fund and Liquor Excise Tax Account, revenues that would otherwise be distributed to cities and counties on a formula basis. While the technical assistance provided by MRC may be of value, SSB No. 6555 would set a precedent by redirecting funds, that would otherwise go to the state General Fund, for the benefit of a special purpose district.

Therefore, I have decided to veto Section 3 of this bill, which establishes the transfer of those funds. Sections 1 and 2 concern the authority for special purpose districts to use the MRC, and the creation of the new account should the legislature choose to appropriate funds for it. Section 4 requires a MRC report to Joint Legislative Audit and Review Committee in 2010.

For these reasons, I have vetoed Section 3 of Substitute Senate Bill No. 6555.

With the exception of Section 3, Substitute Senate Bill No. 6555 is approved.

Respectfully submitted,

Christine O. Gregoire
Governor

2SSB 6558
C 247 L 06

Improving the state of Washington's economic, cultural, and educational standing in the motion picture industry.

By Senate Committee on Ways & Means (originally sponsored by Senators Brown, Hewitt, Eide, Kohl-Welles, Benson, McAuliffe, Benton, Kline and Keiser).

Senate Committee on Labor, Commerce, Research & Development
Senate Committee on Ways & Means
House Committee on Finance

Background: Some economic studies indicate that expenditures on motion picture and video productions in Washington have declined from $50 million in 2001 to a current $13 million annually. Industry experts contend that the decline is at least in part a result of the myriad of tax breaks and other incentives available in other states and British Columbia. For example, the state of Oregon recently enacted the "Greenlight Oregon" program, which makes available to film producers who spend at

least $1 million in a year in that state: (1) a rebate of about 6.2 percent of wages paid through regular payroll work done in Oregon; and (2) a discount of 10 percent on the purchase of goods and services from Oregon vendors that have agreed to offer the discount in exchange for being identified in the program by the Oregon Office of Film and Video.

Summary: A Motion Picture Competitiveness Program (MPCP), a non-profit entity administered by a board of directors appointed by the Governor, is authorized. The board consists of an at-large chairperson and representatives of: (1) the film industry, including production and post-production; (2) labor unions affiliated with motion picture production; (3) visitors and convention bureaus; (4) the tourism industry; and (5) the restaurant, hotel, and airline industry.

MPCP is authorized to provide up to 20 percent of the in-state cost of, or investment in, certain film production projects that meet film industry revitalization criteria set by the Department of Community, Trade and Economic Development (CTED). A contributor of cash of up to one million dollars to MPCP qualifies, dollar for dollar, for a business and occupation tax credit until 2008. After 2008, the amount of the credit is reduced to 90 percent of the amount contributed. A credit may be claimed in the current year or carried over for up to three succeeding years. No more than $3.5 million in credits may be granted, state-wide, in any year. The business and occupation tax credit expires July 1, 2011.

Motion picture productions receiving funding from the program established by this bill must annually report employment and other information to CTED. The Joint Legislative Audit and Review committee must make a recommendation on the effectiveness of the business and occupation tax credit to the House Finance Committee and the Senate Ways and Means committee in December 2010.

Votes on Final Passage:

Senate	47	1	
House	90	8	(House amended)
Senate	47	0	(Senate concurred)

Effective: June 7, 2006

ESSB 6566
C 329 L 06

Revising commute trip reduction provisions.

By Senate Committee on Transportation (originally sponsored by Senators Eide, Esser, Swecker, Haugen, Prentice and McAuliffe; by request of Department of Transportation).

Senate Committee on Transportation
House Committee on Transportation

Background: In 1991, the Commute Trip Reduction (CTR) law was enacted as part of the Washington Clean Air Act. The goals of the CTR program are to reduce air pollution, traffic congestion, and fuel consumption through employer-based programs that decrease the number of employees traveling by single-occupant vehicles to the work place.

Current law requires that counties with a population over 150,000, and each city or town within those counties containing a major employer (100 or more full-time employees at a single worksite who begin their scheduled work day between 6:00 A.M. and 9:00 A.M.) must adopt by ordinance and implement a CTR plan. Other jurisdictions and employers may voluntarily comply with the CTR laws. Ten counties are currently participating in the CTR program.

The CTR Task Force is comprised of 28 members, including employer, state agency, county, city, transit, and citizen representatives. The Task Force is charged with developing implementation guidelines for local jurisdictions, monitoring the programs, and providing clarification and modification to the guidelines when needed. Additionally, the Task Force is charged with evaluating the program and reporting any recommendations to the Legislature each biennium. In November of 2005, the Task Force adopted a proposal that included recommendations to make the CTR program more efficient and submitted request legislation to the Governor's office. The Task Force sunsets on July 1, 2006.

Summary: The CTR task force is replaced with the CTR board, and the sunset date for the CTR Board is eliminated. The board consists of sixteen members, which include: (1) the Secretary of Transportation or designee; (2) a representative from the Office of the Governor or designee; (3) the director or designee of one of the following agencies, Department of General Administration, Department of Ecology, or Department of Community, Trade, and Economic Development; (4) three representatives from cities and towns or counties; (5) two representatives from transit agencies; (6) two representatives from a participating Regional Transportation Planning Organization (RTPO); (7) four representatives from employers or owners of major worksites in Washington; and (8) two citizens appointed by the Governor. The CTR board must advise Washington State Department of Transportation (WSDOT) in the adoption of the rules to govern the new program. The board is provided with a number of duties including, but not limited to: creating a state CTR plan, establishing statewide program goals, and establishing guidelines and deadlines for creating and updating local CTR plans.

Each county containing an urban growth area (UGA), and each city within an urban growth area with a state highway segment exceeding the 100 person hours-of-delay threshold calculated by the WSDOT, as well as those counties and cities located in any contiguous urban

growth areas, are required to adopt a CTR plan and ordinance for major employers in the affected urban growth area. Also, those jurisdictions located within a UGA with a population greater than seventy thousand that adopted a commute trip reduction ordinance before 2000 must participate in the program.

Affected urban growth areas that had not previously implemented a CTR plan are exempted from the planning and ordinance requirements if the state has funded solutions to state highway deficiencies to address the area's congestion.

Counties, cities, and towns that do not meet the above criteria may voluntarily participate in the CTR program. State financial support for jurisdictions participating on a voluntary basis must be limited to areas that meet criteria to be developed by the CTR Board.

Jurisdictions containing a major employment installation in a county with an affected growth area are required to adopt a CTR plan and ordinance for major employers in the major employment installation. The ordinance must provide an appeals process for major employers, who as a result of special characteristics of their business or location would be unable to meet the requirements of the ordinance.

RTPOs that contain an affected urban growth area are required to adopt a CTR plan for the region consistent with rules and deadlines established by WSDOT. The minimum requirements for the regional plan are provided. The plan must be developed in collaboration with all affected jurisdictions and reviewed and approved by the CTR board. Regions without an approved plan are not eligible for state CTR funds.

Counties, cities, and towns as part of the CTR plan may identify a current or new activity center as a growth and transportation efficiency center and establish a transportation demand management (TDM) program in the designated area. In order to be eligible for state funding, designated growth and transportation efficiency centers must be certified to meet specified criteria by the applicable RTPO. The content for TDM programs for a growth and transportation efficiency center are defined. A jurisdiction that has established growth and transportation efficiency centers must provide support for vehicle trip reduction activities, and adopt policies, ordinances and funding strategies that will lead to attainment of program goals in the center.

State agencies that are co-located at a worksite in an affected urban growth area, and when combined employ over 100 full time employees, must develop and implement a joint CTR program. The worksite will be treated as a major employer worksite.

Not more than ninety days after the adoption of a jurisdiction's CTR plan, each major employer in the jurisdiction must perform a baseline measurement consistent with rules adopted by WSDOT. No more than ninety days after receiving the results of the baseline measurement, each major employer must develop a CTR plan and submit it for review to the jurisdiction. Not more than ninety days after being approved by the jurisdiction, the employer must implement the CTR program.

Employers implementing CTR programs are required to make a good faith effort to achieve the goals in the county CTR plan. Factors considered in determining whether a good faith effort has been made are modified to include: (1) whether the employer has notified the jurisdiction of its intent to substantially change its program and has either received approval of the jurisdiction to do so, or has acknowledged that the program may not be approved without additional modifications; and (2) the employer has provided adequate information and documentation of implementation when requested by the jurisdiction. Jurisdictions are required to review an employer's progress every two years instead of on an annual basis.

The CTR Board reports to the Legislature and the Governor. The CTR Board is required to determine the allocation of program funds made available. Various legislative findings are made.

Votes on Final Passage:

Senate	44	0	
House	98	0	(House amended)
Senate			(Senate refused to concur)
House	98	0	(House amended)
Senate	47	0	(Senate concurred)

Effective: June 7, 2006

SB 6568
C 287 L 06

Modifying animal fighting provisions.

By Senators Regala, Carrell and Oke.

Senate Committee on Judiciary
House Committee on Judiciary

Background: Animal fighting is an unranked class C felony (0 to 12 months incarceration). A person who promotes, organizes, conducts, participates in, advertises, or performs any service in the furtherance of animal fighting, or provides or serves as a stakeholder for any money wagered on an animal fight commits the offense of animal fighting.

Summary: It is clarified that the offense of animal fighting requires knowing promotion, organization, participation in, advertisement, or performance of any service in the furtherance of animal fighting. It is also clarified that the offense includes being a spectator, and that the wagering activity may occur at any place or building.

Votes on Final Passage:

Senate	47	0	
House	98	0	(House amended)
Senate	44	0	(Senate concurred)

Effective: June 7, 2006

SSB 6570
C 288 L 06

Requiring lenders to consider retail installment contracts for the purchase of motor vehicles.

By Senate Committee on Financial Institutions, Housing & Consumer Protection (originally sponsored by Senators Fairley, Benton, Berkey and Honeyford).

Senate Committee on Financial Institutions, Housing & Consumer Protection
House Committee on Financial Institutions & Insurance

Background: A retail installment sales contract is used when a buyer purchases a motor vehicle from a dealer and the buyer requests that the dealer provide financing for the vehicle. Generally, the dealer then assigns or sells these contracts to a financial institution as soon as the purchase transaction for the vehicle is complete. Financial institutions often compete to purchase such contracts from dealers, with the best offer ultimately establishing the interest rate and fees that the buyer pays on the motor vehicle loan.

Currently, lenders are not required to consider, or review, generic forms of retail sales contracts.

However, it is believed that there is a need for dealers, who are securing financing for their customers, to have the ability to "shop" single, or generic, contracts to multiple lenders. This would increase competition and allow lower interest rates and fees to be passed on to the motor vehicle consumer.

Summary: Retail installment contracts for the purchase of a motor vehicle that meet applicable federal and state law requirements are required to be considered by lenders.

The provisions of this bill do not apply to retail installment contracts from consumer loan companies.

Votes on Final Passage:

Senate	47	0
House	96	1

Effective: June 7, 2006

SSB 6571
C 289 L 06

Refining the definition of "bushing."

By Senate Committee on Financial Institutions, Housing & Consumer Protection (originally sponsored by Senators Berkey, Benton, Fairley, Honeyford, Franklin and Parlette).

Senate Committee on Financial Institutions, Housing & Consumer Protection
House Committee on Commerce & Labor

Background: Current law requires that when an offer to purchase or lease a vehicle is accepted contingent on securing financing, or on some other factor, the auto dealer must give final acceptance or rejection of the offer within three days (excluding Saturdays, Sundays, and holidays), without further negotiation. This means, for example, an offer made on Tuesday must be accepted or rejected by Friday.

Definition of Bushing. Failure to adhere to this three-day limit to accept, or reject, an agreement to purchase or lease a motor vehicle is called "bushing." Bushing has been prohibited in statute since 1967, when Washington first specified unlawful practices for motor vehicle dealers.

Dealer rejections and renegotiations. If the dealer rejects the agreement, any money, trade-in vehicle, or anything else given as initial payment or security must be returned, and the deal must be called off, before there can be any attempt to reopen negotiations. Dealers, however, may renegotiate the dollar amount of the trade-in allowance given to buyers in two situations: (1) the buyer fails to disclose that the title to the vehicle has been branded; or (2) the vehicle has substantial physical damage or mechanical defects that could not reasonably have been discovered when the offer was accepted.

Summary: The prohibition on bushing is amended to clarify that it:

- applies only to situations where there is a contract signed by the buyer or lessee;
- does not affect the right of a dealer to take legal action against a buyer or lessee who is not truthful about income, employment, or debt in applying for financing or a lease (unless the dealer was involved in the deception); and
- applies to situations where the dealer is seeking financing from a bank or other commercial lending institution, as well as situations where financing is through the dealership.

The dealer may inform the buyer or lessee of whether an offer has been accepted or rejected by e-mail, if the dealer also communicates this information by any additional means.

Votes on Final Passage:

Senate 45 0
House 97 0

Effective: June 7, 2006

SSB 6572
C 51 L 06

Revising the unlawful detainer process under the residential landlord-tenant act.

By Senate Committee on Judiciary (originally sponsored by Senator Hargrove).

Senate Committee on Judiciary
House Committee on Judiciary

Background: The Residential Landlord-Tenant Act (RLTA) governs the relationship between landlords and tenants of residential dwelling units, establishes the duties and liabilities of the parties, and provides procedures for the enforcement of the act.

An unlawful detainer action is a court process to evict a tenant who remains on the rental premises beyond the time he or she is required to leave. The landlord must serve the tenant with a summons and complaint, which must designate a specific date by which the tenant must respond. The tenant's response generally must be in writing, and be provided to the landlord. Additionally, the summons may require that the tenant provide a specific sworn statement denying that rent is due, and stating the reason the rent is not due. There are two statutes directing this process. One statute contains a sample summons form; the other statute describes and provides sample language for an action with a sworn statement. The notice delivery options are different in the two statutes.

Summary: The language requiring a sworn statement of nonpayment of rent is removed from the sample summons form provided in the statute. The complementary statute, chapter 59.18.375 RCW, is added and amended to include the same notice delivery options as contained in chapter 59.18.365 RCW.

Votes on Final Passage:

Senate 46 0
House 97 0

Effective: June 7, 2006

SB 6576
C 136 L 06

Clarifying procedures for forwarding sex offender information.

By Senators Hargrove, Brandland, Rasmussen and McAuliffe; by request of Washington State Patrol.

Senate Committee on Human Services & Corrections
House Committee on Criminal Justice & Corrections

Background: A person convicted of a sex or kidnapping offense must register with the county sheriff of the county in which he lives. The person subject to the registration requirements must provide such information as his or her name, address, date and place of birth, place of employment, crime of conviction, date and place of conviction, aliases, Social Security number, photograph, and fingerprints. He or she must also notify the county sheriff if he or she is enrolled in public or private school or in an institution of higher education. A person without a fixed residence must also provide information on where he or she plans to stay.

The county sheriff must forward the information provided by a person subject to the registration laws to the Washington State Patrol (WSP) and to the Washington Association of Sheriffs and Police Chiefs (WASPC).

Washington law requires WSP to maintain a central registry of sex offenders and kidnapping offenders required to register in the state.

Washington law requires WASPC to maintain and operate a web site, posting information about Level II and Level III sex offenders residing in the state, as well as information about all registered kidnapping offenders in the state.

The "level" of a sex offender represents that person's risk of reoffense within the community at large. A "Level I" offender has been assessed at a low risk of reoffense; a "Level II" offender has been assessed at a moderate risk of reoffense; and a "Level III" offender has been assessed at a high risk of reoffense within the community at large. In most cases, the risk level is assessed by the End-of-Sentence Review Commission, established and administered by the Department of Corrections. By law, the End-of-Sentence Review Commission must have access to all relevant records and information in the possession of public agencies relating to the offenders under review.

One of the uses of the risk level classification is to determine the level of public notification required. Local law enforcement agencies are responsible for the public notification component of managing sex offenders in the community. Under the public notification provisions of the law, local law enforcement agencies must review the risk level set by the End-of-Sentence Review Commission. They must then assign a risk level classification to persons about whom they will be notifying the community. If the local law enforcement agency classifies the person differently than the End-of-Sentence Review Commission, it must notify the End-of-Sentence Review Commission and submit reasons supporting the change in classification.

The law does not require local law enforcement agencies to notify WSP about a change in the risk level classification.

Summary: The information relevant to a particular registered sex offender that a county sheriff must forward to the Washington State Patrol, for inclusion in the state's central registry of sex offenders and kidnapping offenders, must include the sex offender's risk level classification.

Votes on Final Passage:

Senate	48	0
House	98	0

Effective: June 7, 2006

ESSB 6580
C 135 L 06

Creating work groups to evaluate issues relating to juvenile sex offenders and kidnapping offenders in schools.

By Senate Committee on Human Services & Corrections (originally sponsored by Senators McAuliffe, Schmidt, Weinstein, Carrell, Berkey, Rasmussen, Oke and Shin).

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

Background: In 2005, the Legislature passed HB 2101, requiring any adult or juvenile who must register as a sex offender, and who enrolls in any public or private common school, to notify the sheriff of his or her intent to enroll in the school. The report must be made within ten days of enrolling or prior to arriving to attend classes, whichever is earlier. The sheriff must promptly notify the school principal.

If the student is a Level I sex offender, the principal must notify only those persons on the staff who, in the judgment of the principal, need to be aware of the student's record for security purposes. If the student is a Level II or Level III sex offender, the principal must notify all of the student's teachers and any other person who, in the judgment of the principal, supervises the student or needs to be aware of the student's record for security purposes.

Any information received by the principal as a result of the report is confidential and may not be further disseminated except as provided in state or federal law. The notification provisions of HB 2101 take effect September 1, 2006.

The law further requires the Safety Center of the Office of the Superintendent of Public Instruction (OSPI) to review the types and amounts of training that will be necessary for principals, teachers, supervisors, and school staff to implement the new law and report back to the Legislature by January 1, 2006.

In 2005, representatives from education, law enforcement, juvenile justice, sex offender specialists, and both child and victim advocacy groups met to discuss the training component of HB 2101. That Task Force concluded that training could not properly be addressed without first addressing notification and information sharing issues. As an initial step, the Task Force recommended:

- The Washington Association of Sheriffs and Police Chiefs (WASPC) create a statewide model process and content for juvenile sex offender notifications to schools for all jurisdictions; and
- The Washington State School Directors Association, in association with the OSPI, create a statewide model school policy on sex offender notification and outline a clear process to follow when notification is received from law enforcement.

Summary: The OSPI is required to convene a workgroup to develop a model policy for schools to follow when receiving notification from the sheriff's office that a sex offender is enrolled. Issues that must be addressed by the model policy are specified.

OSPI must consult with representatives from other agencies and professional organizations as appropriate in carrying out its duties under this Act. A final report and recommendations must be submitted to the appropriate committees of the Legislature by November 15, 2006.

The Washington Coalition of Sexual Assault Programs is required to create educational materials for parents and other interested community members on how to recognize sex offender behaviors and keep themselves and their children safe. The materials must be developed in consultation with the WASPC, the Washington Association of Prosecuting Attorneys, and the OSPI.

Votes on Final Passage:

Senate	48	0
House	97	0

Effective: June 7, 2006

E2SSB 6581
C 169 L 06

Regarding a study of the instream flows of the Hanford Reach.

By Senate Committee on Ways & Means (originally sponsored by Senators Poulsen and Delvin).

Senate Committee on Water, Energy & Environment
Senate Committee on Ways & Means

Background: Twelve million dollars of bonds were appropriated last session for watershed planning and instream flows.

Summary: Two hundred fifty thousand dollars of the state building construction account-state appropriation for fiscal year 2007 is provided to the Department of Ecology to work with interested parties in studying instream flows in the Hanford Reach and studying the impact of flows on the ecological condition of the Hanford Reach as it relates to studying the needs of salmon and steelhead. The department must report its findings

by July 1, 2007.

The $250,000 is part of the $12 million of bonds appropriated in 2005 for watershed planning and instream flows and is not a new appropriation.

Votes on Final Passage:

Senate 49 0
House 98 0

Effective: June 7, 2006

SB 6596
C 52 L 06

Revising the dissolution of Washington corporations.

By Senators Kline, Johnson, Weinstein and Esser.

Senate Committee on Judiciary
House Committee on Judiciary

Background: The provisions of the Washington Business Corporations Act (WBCA) were adopted in 1989 and have been revised in various respects on ten occasions between 1990 and 2004. One area of the act that has not been revised since 1989, and that has been the subject of several lawsuits, is the provision dealing with dissolution of a corporation, specifically, the area of creditors' rights once a corporation has been dissolved. For example, under current law, it has been argued that claims arising after dissolution of the corporation are barred from remedy.

Summary: Assets of a corporation transferred to a liquidity trust or other successor are not considered to be distributed for purposes of measuring their legality, until the trust or other successor distributes the assets to the shareholders.

A shareholder is personally liable for distributions he or she received while knowing the distribution, or a portion thereof, was made in violation of WBCA's provisions for distribution, or made in violation of the corporation's articles of incorporation. The shareholder in violation is entitled to contribution from every other shareholder also in violation. A proceeding against the shareholder for the violation must begin within two years of the effective date of the distribution, or within three years after the date of dissolution of the corporation, whichever is earlier.

The board of directors of a corporation may dedicate the corporation's assets to the repayment of its creditors by way of assignment for the benefit of creditors, or receivership.

A majority of initial directors or incorporators may authorize dissolution of the corporation if shares have not been issued. If not prohibited by the articles of incorporation, a majority of the board of directors may authorize dissolution of the corporation without approval of the shareholders if the corporation is not able to pay its liabilities as they become due, the corporation's assets are less than the sum of its liabilities, and if ten or more days have passed since the board gave notice to all shareholders of its intention to dissolve the corporation.

Within thirty days of a voluntary dissolution, the corporation must publish notice of the dissolution and request that persons with claims present them to the corporation in a format prescribed in the initial published notice. The notice must also state that claims not filed in a timely manner may be barred. The corporation's failure to publish its dissolution does not change the effective date of the dissolution.

The corporation may give written notice of dissolution to the holders of claims known to the corporation, stating a general description of the claims or liabilities and stating that the claim may be barred if the claim holder does not respond. The written notice may also state that the claim may be rejected, in which case the claim holder will have a limited period of time in which to commence an action to enforce the claim.

As a dissolved corporation winds up its affairs, it may dispose of properties and apply the proceeds to the payment of liabilities, or dispose of the properties with the applicable liens and security interests attached and within the applicable contractual restrictions. Once dissolved, the board of directors may determine that the payment of outstanding liabilities is provided for by an insurance policy. Once that determination is made, the board may consider the liabilities satisfied and may make a subsequent distribution of remaining assets to the shareholders.

If the board of directors turns over control of the dissolved corporation to a court or receiver, the directors are relieved from any further duties of liquidating the corporation's assets and satisfying the liabilities.

Directors or shareholders may make decisions necessary to authorize the activities of dissolution.

A dissolved corporation may apply to a superior court for a determination that its proposed satisfaction of a claim or liability is reasonable. The corporation must give notice to the claim holder of such a proceeding. The superior court's determination of the amount and form of satisfaction of a claim satisfies the corporation's obligation with respect to that particular claim and further claims on the same facts are barred.

The holder of an unpaid claim may begin a proceeding against the corporation to collect on the claim. The proceeding may include a petition to collect assets that have already been distributed to shareholders, and those shareholders may become parties to the proceeding. The claim holder may not proceed directly against the directors, officers, or shareholders, except in limited circumstances. Claims that are barred by any of the circumstances in this act cannot be enforced against the corporation.

A dissolved corporation may seek supervision by a superior court of its winding up and liquidation. The

action must occur in the county where the corporation's registered office is, or was, located. The shareholders or directors need not be made parties to the proceeding unless relief is sought against them.

Survival provisions are clarified to make clear that claims arising after filing for dissolution can be asserted against the corporation, and the survival period is extended to three rather than two years.

Technical changes are made to various provisions of WBCA to comport with the new provisions. Grammatical changes are made to various provisions of WBCA to clarify the law.

Votes on Final Passage:

Senate	41	0
House	98	0

Effective: June 7, 2006

SSB 6597
C 360 L 06

Modifying trusts and estates, generally.

By Senate Committee on Judiciary (originally sponsored by Senators Johnson, Kline, Weinstein and Esser).

Senate Committee on Judiciary
House Committee on Judiciary

Background: Title 11 of the Revised Code of Washington (RCW) contains most of the provisions dealing with probates and trusts. Other titles of the RCW that are often used in conjunction with title 11 are title 6, dealing with the enforcement of judgments, and title 19, dealing with miscellaneous business regulations.

The Washington State Bar Association, through a committee specific to this area of law, proposes changes to these titles where either problems with the interpretation of the law have surfaced or in areas where specific outcomes not anticipated or desired from the original language have resulted.

Summary: Trusts can be initially created as unitrusts. The payout percentage of unitrusts is changed to a range consistent with the federal internal revenue rate.

Changes to the marital deduction allowance provision of the trust gift distribution portion of title 11 are made to preserve the marital deduction in cases of mistakes by will drafters. The changes take into account an interpretation of the provision by the federal Internal Revenue Service. The changes also anticipate changes by the federal law that go into effect in 2009. Technical changes are made to this provision for consistency with the federal law.

The provisions dealing with spendthrift trusts are amended. Specific changes pertain to the ability of the trust creator to affect the gift tax provisions of that trust without turning the trust into another trust form that is not otherwise allowed in Washington law.

A change is made to the laws regarding small estates to clarify the circumstances under which heirs can receive a deceased person's property without the need for a full probate of the estate.

The dollar amount definition of a small estate is changed from $60,000 to $100,000.

Votes on Final Passage:

Senate	47	0	
House	90	0	(House amended)
Senate	45	0	(Senate concurred)

Effective: June 7, 2006

ESB 6606
C 68 L 06

Requiring standards for educational interpreters for students who are deaf or hard of hearing.

By Senators Fraser, Oke, Fairley, Deccio, Berkey, McAuliffe, Keiser, Kline, Regala, Honeyford, Thibaudeau, Mulliken, Pridemore, Rockefeller, Delvin, Rasmussen and Kohl-Welles.

Senate Committee on Early Learning, K-12 & Higher Education
House Committee on Education

Background: Under federal and state law, school districts are required to provide a free and appropriate education to children who by reason of a disability need special education and related services. "Special education" means specially designed instruction to meet the unique needs of a child with a disability. "Related services" includes supportive services that help the child benefit from special education. Sometimes this means that school districts have an obligation to provide educational sign language/oral interpreters for deaf or hard-of-hearing students.

Currently, there is no law that requires educational interpreters to be certified or to meet standardized qualifications or competencies. There is a national and a state certification that may be obtained on a voluntary basis. A college degree is not a prerequisite for either certificate. There are three community college programs that offer classes to prepare for the tests but they train interpreters for adult-to-adult community settings and are not designed to meet the needs of children in the public school setting. Wenatchee Valley Community College recently established a two-year educational interpreter training program.

Summary: To the extent funds are appropriated, the Superintendent of Public Instruction (SPI) must develop standards for educational interpreters of students who are deaf or hard-of-hearing. The standards must focus on the specific skills and knowledge necessary to serve the communication needs of students. The SPI must recommend an implementation schedule for the standards.

When developing the standards, the SPI must convene an advisory committee including representatives of interpreters, interpreter educators, school district coordinators of deaf programs, leaders in the deaf community, and parents of deaf children.

The SPI must report on any standards developed for educational interpreters and must obtain formal legislative approval before implementing any standards for educational interpreters.

Votes on Final Passage:

Senate	46	0
House	91	0

Effective: June 7, 2006

SSB 6613
C 290 L 06

Prohibiting internet gambling.

By Senate Committee on Labor, Commerce, Research & Development (originally sponsored by Senators Prentice, Keiser, Kline, Rasmussen and Shin).

Senate Committee on Labor, Commerce, Research & Development
House Committee on Commerce & Labor

Background: Since the Gambling Act was enacted in 1973, it has been a gross misdemeanor to knowingly send or receive by telephone, telegraph, radio, semaphore, or similar means any wagers or any other information intended to be used for professional gambling. The Gambling Act does not apply to parimutuel wagering authorized by the Horse Racing Commission or the selling or purchasing of tickets or shares in the state lottery.

Following the 1990 ruling in *Mashantucket Pequot Tribe v. Connecticut*, courts interpreting the Indian Gaming Regulatory Act have consistently held that when requested by a tribe, a state must engage in compact negotiations regarding the conduct of a gambling activity unless, as a matter of criminal law and public policy, the activity is prohibited.

Summary: The internet and telecommunications systems are added to the list of means over which a person is prohibited from knowingly transmitting or receiving wagers or other gambling information. The penalty for knowingly engaging in such illegal transmission or receipt is increased from a gross misdemeanor to a Class C felony. The Lottery Commission is prohibited from offering any game where the internet can be used to buy tickets or chances.

An affirmative vote of 60 percent of both houses of the Legislature is required before the Lottery Commission may offer any lottery game that allows or requires a player to use a device that electronically replicates any game of chance, including electronic scratch tickets.

Votes on Final Passage:

Senate	44	0
House	93	5

Effective: June 7, 2006

SSB 6617
C 369 L 06

Regarding the contents of farm plans prepared by conservation districts.

By Senate Committee on Agriculture & Rural Economic Development (originally sponsored by Senators Haugen and Rasmussen).

Senate Committee on Agriculture & Rural Economic Development
House Committee on Local Government

Background: Conservation districts are non-regulatory agencies that provide technical assistance to landowners and operators. Access to a number of conservation programs is made through conservation districts.

Many farm plans requested by landowners are made on a voluntary basis to improve the management of land and other natural resources. A recent demand for copies of all farm plans held by a conservation district have lead to concerns that public disclosure of farm plans will serve as a disincentive to landowners and operators from participating in voluntary conservation programs.

Summary: Before preparing a farm plan, the conservation district is to inform the landowner or operator in writing of the types of information that is subject to disclosure to the public. Before completion of the final draft of the farm plan, the district is to send the farm plan to the landowner or operator for verification of the information. The final farm plan must not be disclosed by the conservation district until the requesting owner or operator confirms the information in the farm plan and returns a signed copy to the conservation district.

Farm plans developed by conservation districts are not subject to public disclosure unless permission is granted by the landowner or operator that requested the plan or the farm plan is used for application or issuance of a permit. Farm plans developed solely under the state Clean Water Act are subject to the disclosure provisions contained in statutes enacted in 2005 which provide for creation of ranges to be used in reporting.

Votes on Final Passage:

Senate	46	0	
House	98	0	(House amended)
Senate	43	0	(Senate concurred)

Effective: June 7, 2006
July 1, 2006 (Section 2)

SSB 6618
C 352 L 06

Requiring a study to explore options to augment the current educational assessment system.

By Senate Committee on Early Learning, K-12 & Higher Education (originally sponsored by Senators McAuliffe and Schmidt).

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

Background: Beginning with the graduating class of 2008, public school students must meet the state standard on the 10th grade Washington Assessment of Student Learning (WASL) to earn a Certificate of Academic Achievement and graduate from high school, except for eligible special education students for whom the WASL is not appropriate. Beginning in 2006, retakes of the WASL are available up to four times in the content areas in which the student did not meet the state standard.

The Legislature has directed the Office of the Superintendent of Public Instruction (OSPI) to develop objective alternative assessments, which could include an appeals process, for students to demonstrate achievement of the state standards. The alternatives must be comparable in rigor to the skills and knowledge on the WASL. The Legislature must formally approve the use of any alternative assessment. Students must retake the WASL at least once prior to accessing any alternative assessment.

Summary: This act is named for former Governor Booth Gardner. The intent section provides that the Legislature continues to support the Washington Assessment of Student Learning (WASL) as part of a comprehensive assessment system. However, there is interest in exploring why some students have not been able to meet the state standards and whether additional alternative methods, options, procedures, or performance measures could be used to augment the current system and enhance the success of students.

The Washington Institute of Public Policy (Institute) is directed to conduct a study that will consist of three components:

1) An statistical analysis of the characteristics of the students who did not meet the state standard on the WASL and identification of possible barriers to student success or possible causes of the lack of success;
2) A review and identification of additional alternative assessment options that will augment the current assessment system. When identifying alternative assessment options, the Institute will include a review of alternative assessments in other states and those developed and those proposed in Washington. For each option, the study must consider costs, cultural appropriateness, whether it reliably measures a student's ability to meet state learning standards, whether it meets the current requirement of rigor and objectivity, and any challenges to implementation, including any legislative action necessary for implementation; and
3) A review and identification of additional alternative methods, procedures, or combinations of performance measures to assess whether students have met the state learning standards. For each option, the study must consider the same issues addressed for the alternatives assessments plus whether the procedures, methods, or performance measures could be standardized across the state.

By December 1, 2006, the Institute must provide an interim report to the Legislature and a final report by December 2007. The interim report must include a preliminary statistical analysis of the student data and recommendations on at least two alternative assessment options, methods, procedures, or performance measures. The final report must include suggestions for any follow-up studies that the Legislature could undertake to continue to build on the information obtained in this study.

The Institute must consult with a number of listed experts and stakeholders in developing the initial list of possible options, procedures, methods, and measures to be reviewed under the second and third part of the study. OSPI and school districts are required to provide the Institute with access to all necessary data to conduct the study.

Votes on Final Passage:

Senate	47	0	
House	71	27	(House amended)
Senate	44	0	(Senate concurred)

Effective: June 7, 2006

E2SSB 6630
C 303 L 06

Establishing the community protection program for persons with developmental disabilities.

By Senate Committee on Ways & Means (originally sponsored by Senators Kline, Prentice, Keiser, Fairley, Regala, McAuliffe and Kohl-Welles).

Senate Committee on Health & Long-Term Care
Senate Committee on Ways & Means
House Committee on Children & Family Services

Background: In 1996, the Legislature began providing funding to the Department of Social and Health Services (DSHS) to create and run a program for persons with developmental disabilities who have demonstrated vio-

lent or sexually violent behaviors. The program, known as the Community Protection Program, continues to exist through budget proviso and through Division of Developmental Disabilities policy.

Currently, there are approximately 390 persons placed in the Community Protection Program. Of the 390, approximately 80 percent demonstrate sexually aggressive behavior, with the remaining 20 percent demonstrating violent, assaultive, or arsonist behaviors. Approximately 100 participants are registered sex offenders.

The community protection program offers twenty-four hour per day supervision, treatment and counseling, and access to job training skills through day service programs.

DSHS contracts with private companies to provide the required supervision for persons in the Community Protection Program. Currently, eighteen companies are providing services. Of the eighteen companies, four are non-profit.

Summary: The bill places the Community Protection Program in statute.

It sets forth criteria that a person with developmental disabilities must meet for placement in the Community Protection Program. Entry criteria includes, but is not limited to: conviction of or charged with a crime of sexual violence, including rape and child molestation; the commission of one or more violent offenses, including any class A felony, assault in the second degree, arson in the second degree, or robbery in the second degree; and constituting a current risk to others.

Prior to placement in the program, a person must first receive an assessment from a qualified professional to determine appropriateness for placement in the program.

A person is entitled to an administrative hearing under the Administrative Procedures Act if the person wants to appeal termination of community protection waiver eligibility, assignment to the community protection waiver, and denial of a request for a less restrictive community residential placement. Final decisions made by an administrative law judge may be appealed to superior court.

The process by which a program participant may seek placement in a less restrictive environment is codified. The process, enumerated within the bill, includes: success in complying with reduced supervision; remaining free of offenses that may indicate relapse for at least twelve months; and written verification of the participant's treatment progress.

DSHS's authority to take action against contracted providers of residential services who fail or refuse to comply with the terms of their contract is codified. Sanctions include decertifying or refusing to renew the certification of a provider, imposing conditions on the certification, or imposing civil penalties of not more than one hundred fifty dollars per day per violation.

Votes on Final Passage:

Senate	46	1	
House	98	0	(House amended)
Senate	46	0	(Senate concurred)

Effective: June 7, 2006

ESSB 6635
C 248 L 06

Changing provisions relating to adoption.

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Franklin, Benton, Zarelli, Stevens, Honeyford and Rasmussen).

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

Background: Adoptions in the state occur through licensed private agencies, the Division of Children and Family Services of the Department of Social and Health Services (DSHS), and independent agents. Requirements, processes, and services offered vary with each of these three methods of adoption. Additionally, the fees related to adoption of a child through these three methods can vary greatly and can exceed the financial reach of families whose resources are limited.

Concerns were raised in the 2004 legislative session that families willing to adopt have been discouraged or prevented from doing so because of the prohibitive fees. As a result, the Legislature passed House Concurrent Resolution 4418, creating a legislative panel to study a variety of adoption-related issues. Recommendations from the study panel were given to the Legislature in January 2005. To date, the study panel's report has not resulted in further legislation on this issue.

Adoption fees can be charged for a variety of expenses in the adoption process. Authorized fees include such items as the preparation of legal documents, legal representation, court costs, home studies, birth parent medical expenses, and agency fees. Actual fees may range from zero (0) to thirty thousand dollars ($30,000).

Federal law provides that an adoption may not be delayed or denied based upon the race, color, or national origin of the adoptive parent or the child involved. Further, an agency may not routinely consider race, national origin, or ethnicity in making placement decisions. Any consideration of race or ethnicity must be done on an individualized basis where special circumstances warrant their consideration.

Current state law states that an adoption may not be delayed or denied on the basis of the race, color, or national origin of the adoptive parent or the child. However, in considering the best interests of the child, the

department may consider the cultural, ethnic, or racial background of the child and the capacity of prospective adoptive parents to meet the needs of a child of this background.

Summary: DSHS is required to create standardized training on federal civil rights laws on the placement of children for all DSHS or agency employees involved in the placement of children. DSHS must also consult with adoption related entities to review adoption fees as barriers to adoption and study accreditation standards for adoption agencies.

The Department of Health must work with DSHS to recommend a process for the collection of adoption statistical data. Recommendations must be submitted to the Legislature by October 1, 2006.

Language is added to clarify that the Attorney General may bring an action for an unlawful trade practice against any person advertising adoption services in the state without a license. An advertising entity that attempts to verify that a person or entity providing adoption services has complied with the law does not commit an unlawful trade practice for accepting adoption advertising in good faith.

Votes on Final Passage:

Senate	44	4	
House	98	0	(House amended)
Senate	48	0	(Senate concurred)

Effective: June 7, 2006

SB 6637
C 249 L 06

Concerning qualifications for adult family home providers.

By Senators Keiser and Deccio.

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

Background: Adult family homes are licensed to care for up to six individuals who need long-term care. Adult family homes provide room, board, laundry, necessary supervision, assistance with activities of daily living, personal care, and nursing services if necessary. The Department of Social and Health Services (DSHS) is responsible for licensing adult family homes.

Prior to becoming an adult family home provider, a person must meet minimum qualifications enumerated in statute including specific education, age, and character requirements. Additionally, a person seeking to become a provider must satisfactorily complete DSHS approved basic training and continuing education training as specified by rule.

Summary: Prior to being granted a license, a provider applying for an adult family license after January 1, 2007, must complete a Department of Social and Health Services' (DSHS) approved 48 hour adult family home administration and business planning class.

DSHS must promote and prioritize bilingual training within available resources.

Votes on Final Passage:

Senate	46	0	
House	93	0	(House amended)
Senate	43	0	(Senate concurred)

Effective: June 7, 2006

SB 6658
C 69 L 06

Revising experience requirements for licensed mental health counselors.

By Senators Thibaudeau and Deccio.

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

Background: The Department of Health is responsible for licensing of mental health counselors, marriage and family therapists, and social workers. Under the licensed social work classifications are licensed advanced social worker and licensed independent clinical social worker. The other licensed categories are: licensed mental health counselor and licensed marriage and family therapist. All of these categories include education, examination, and supervised experience requirements. Under the experience requirements for the social worker, and marriage and family therapists categories, a set minimum number of hours are required to fulfill the experience requirements under the supervision of a specifically qualified professional or "an equally qualified licensed mental health practitioner." Mental health counselors also have a specific supervised experience requirement, however, no allowance is made for mental health counselors to gain supervised experience through supervision by "an equally qualified licensed mental health practitioner."

Summary: Licensed mental health counselors must complete a minimum of thirty-six months full-time counseling or three thousand hours of postgraduate mental health counseling under the supervision of a qualified licensed mental health counselor or an equally qualified licensed mental health practitioner.

Votes on Final Passage:

Senate	41	0
House	98	0

Effective: June 7, 2006

ESB 6661
C 330 L 06

Establishing the Washington beer commission.

By Senators Rasmussen, Esser, Jacobsen, Schoesler and Kohl-Welles.

Senate Committee on Agriculture & Rural Economic Development
House Committee on Economic Development, Agriculture & Trade

Background: Twenty-four Washington commodity commissions have been created to promote or conduct research regarding fruit and fruit products (the Apple, Blueberry, Cranberry, Fruit, Raspberry, Strawberry, Tree Fruit Research, and Wine commissions), various vegetable and other field crops (the Asparagus, Barley, Dry Pea & Lentil, Hop, Mint, Potato, and Wheat commissions), seeds and bulbs (the Alfalfa Seed, Bulb, Rapeseed, Seed Potato, and Turfgrass Seed commissions), and animal husbandry and aquaculture (the Beef, Dairy Products, Fryer, and Puget Sound Salmon commissions).

Most commodity commissions were formed after affected producers assented in a referendum process. They are governed by boards made up of affected producers, with oversight by the Washington State Department of Agriculture (WSDA). To fund activities, all commissions levy assessments upon affected producers.

The state Wine Commission was established in 1987 to promote Washington wine. It is suggested that a similar commission be created to promote Washington beer produced by microbrewers.

Summary: A Washington Beer Commission (Commission) may be created upon approval of "affected producers," who are Washington-licensed brewers producing less than 100,000 barrels annually per location. The Commission will promote and conduct research regarding Washington-produced beer, with oversight by the WSDA director. To fund its activities, the Commission is authorized to assess affected producers and to sell beer at beer festivals.

Creation. Five affected producers may petition WSDA for a referendum to approve formation of the Commission and to impose an assessment upon affected producers. The Commission will be created if at least 51 percent of participating affected producers assent and at least 30 percent of affected producers and 30 percent of production are represented in the vote. The WSDA director will appoint board members and direct the Commission to implement the assessment.

Administration. The Commission will consist of seven voting members: the WSDA director and six producers appointed by the director serving staggered three-year terms. Members must be at least 21, citizens and residents of Washington, and engaged in producing beer (i.e., deriving a substantial portion of income from beer production or having a substantial investment in production as owners, lessees, partners, managers, or executive officers).

Five members constitute a quorum. Members will elect a chair and officers. The Commission must provide for annual meetings to elect officers and transact other business, and may provide for additional meetings. Commission members and employees will be reimbursed for travel expenses.

The Commission will reimburse implementing costs incurred by WSDA. The WSDA director may provide staff support if a position is not directly funded by the Legislature and costs are related to commission activity.

The Commission will prepare an annually-updated address list of and production data concerning all affected producers.

The Commission will submit advertising, promotion, education, market research, and development projects to the WSDA director for approval. The WSDA director will review advertising or promotion programs to ensure that no false claims are made. The Commission will annually submit its research, education and training plans, and budget to the WSDA director for approval.

Funding: Assessments and Beer Sales. The Commission will levy an annual assessment of 10 cents per barrel produced by affected producers, up to 10,000 barrels per location. The Commission may reduce individual assessments based on in-kind contributions. The Commission will adopt administrative rules concerning payment and collection of assessments.

Beginning July 1, 2007, the Commission may fund its activities through sponsorship of up to 12 beer festivals annually, at which beer may be sold. The Commission qualifies for a special occasion license issued by the state Liquor Control Board (LCB).

Powers. The Commission may do all things reasonably necessary to effect its granted authority. It may:

- employ staff, contractors, and private legal counsel;
- receive donated beer for free dissemination at promotional hosting, beer tasting, and other promotional events;
- receive donated beer for fundraising purposes, which may be sold at beer festivals;
- participate in proceedings worldwide regarding beer production, regulation, distribution, sale, or use, including authorized lobbying;
- acquire and transfer property, establish offices, incur expenses, enter into contracts, create debt and other liabilities, maintain accounts, expend money, and keep financial records that are subject to audit by the State Auditor;
- disseminate information among affected producers and solicit their opinions concerning commission activities;

- enter into agreements with persons or entities to promote the industry and assist in selling and distributing Washington beer;
- sue and being sued; and
- serve as liaison with the LCB.

The Commission may create and conduct research, promotional, and educational campaigns to:

- establish Washington beer in markets worldwide;
- promote Washington breweries as tourist attractions;
- encourage favorable legislation, regulation and press coverage in markets worldwide;
- promote Washington hops, malting barley, and wheat; and
- foster economic conditions favorable to investment in Washington beer production.

Liability. Commission obligations and claims against the Commission will be enforced only against its assets. Members or employees may not be held individually responsible for their acts, except for dishonest or criminal acts. Members are state officers or volunteers entitled to benefits of laws governing actions against the state.

Records Exempt from Disclosure. Certain business, commission, and WSDA records relating to the Commission and affected producers are exempt from public disclosure. General statements based upon reports may be issued, as long as they do not identify information furnished by any person, and the name of any person violating applicable laws and the manner of violation may be published.

Enforcement. County and state law enforcement officers, the LCB and its agents, and WSDA employees will enforce commission statutes and other applicable law.

Nonprofit Organization. A nonprofit statewide organization of microbreweries (i.e., the Washington Brewers Guild) may obtain a special occasion liquor license to conduct up to six beer festivals until July 1, 2007.

Votes on Final Passage:

Senate	45	0	
House	95	3	(House amended)
Senate	40	0	(Senate concurred)

Effective: June 7, 2006
July 1, 2006 (Section 26)

SSB 6670
C 192 L 06

Changing court filing fee provisions.

By Senate Committee on Judiciary (originally sponsored by Senators Shin, Delvin, Fraser, Hargrove and Johnson).

Senate Committee on Judiciary
House Committee on Judiciary

Background: Court filing fees for unlawful detainer actions are subject to division with the state for deposit in the public safety and education account. The initial filing fee in an unlawful detainer action is $45. The plaintiff must pay an additional $112 if the defendant files an answer to the unlawful detainer. A fee of $5 is charged for certification of delinquent taxes by a county treasurer.

A $36 fee is charged for filing a petition for modification of a decree of dissolution or paternity if it is within the same case as the original action. This fee is not subject to division with the state.

Money judgments in criminal cases are valid for ten years and may be extended for one additional ten year period, but for offenses committed after July 2000, there is no limit on how many times the judgment may be extended. There is a $200 fee for the issuance of an extension of judgment. This fee is not subject to division with the state.

The fee for filing a petition for unlawful harassment is $53. The fee is subject to division with the state for deposit in the public safety and education account and the law library fund.

Summary: The bill contains a number of technical amendments to provide consistency with filing fee changes made by the Legislature in 2005.

Any party filing a counterclaim, cross-claim, or third-party claim in an unlawful detainer action must pay a filing fee of $157. This filing fee is subject to division with the state for deposit in the public safety and education account. The $5 fee for certification of delinquent taxes is eliminated.

A $36 fee is charged for filing a counterclaim, cross-claim, or third-party claim to a petition for modification of a decree of dissolution or paternity. This fee is not subject to division with the state. When the county clerk requests an extension of judgment in a criminal case, the $200 fee may be imposed as a cost to be paid by the offender.

Votes on Final Passage:

Senate	37	4
House	96	1

Effective: June 7, 2006

SSB 6671
C 301 L 06

Clarifying the application of taxes to the financial activities of professional employer organizations.

By Senate Committee on Ways & Means (originally sponsored by Senators Doumit, Delvin, Rasmussen and Parlette).

Senate Committee on Ways & Means
House Committee on Finance

Background: The business and occupation (B&O) tax is imposed on the gross receipts of business activities without any deduction for the costs of doing business. However, a business that acts as an agent for another business is not liable for B&O tax on amounts that merely "pass through" the agent as reimbursement for expenses incurred by the agent on behalf of the agent's client. For example, an attorney might pay court costs on behalf of a client. When the attorney is reimbursed for those costs by the client, the attorney is not liable for B&O tax on the reimbursements. The attorney is only liable for B&O tax on amounts charged as fees for the attorney's services.

Some businesses utilize the services of other firms to provide employee related services, such as human resource management, payroll and employee tax compliance, and employee fringe benefit packages. The firms providing these services charge their clients amounts which include both payments to the employees and fees charged for the employee related services. These firms have been paying B&O tax on the amounts received as fees for the employee services but not on the amounts received for payment to the employees as wages and benefits.

In December 2002, the Washington Supreme Court decided a case that clarified when payments can be treated as a "pass through" and when tax is applied to the entire amount. The decision involved taxes imposed by the City of Tacoma, but the logic of the court's opinion applies equally to state B&O taxes.

Summary: A professional employer organization is a firm providing employee related services to clients where the client's employer rights, duties, and obligations have been allocated between the client and the professional employer organization.

Professional employer organizations pay B&O tax at the 1.5 percent service rate. A deduction is provided from gross income for amounts representing the actual cost of wages and salaries, benefits, workers compensation, payroll taxes, withholding, and other assessments paid on behalf of the client. Cities must provide professional employer organizations the same tax treatment under their B&O taxes.

Professional employer organizations are not liable for sales and use taxes not properly collected on selling activities by their clients.

Clients, and not the professional employer organization, are eligible for various credits, exemptions, and other tax incentives. The client, and not the professional employer organization, is responsible for filing surveys related to tax incentives.

Votes on Final Passage:

Senate	47	1
House	97	1

Effective: July 1, 2006

SB 6674
C 17 L 06

Requiring that funds collected from construction of the second Tacoma Narrows bridge be deposited in the Tacoma Narrows toll bridge account.

By Senator Oke.

Senate Committee on Transportation
House Committee on Transportation

Background: Under current law, proceeds from the sale of surplus real property acquired for the purpose of constructing the new Tacoma Narrows Bridge and any liquidated damages collected on any contract used to construct the bridge are to be deposited into the Motor Vehicle Account.

Summary: Proceeds from the sale of surplus real property acquired for the purpose of constructing the new Tacoma Narrows Bridge and any liquidated damages collected on any contract used to construct the bridge are to be deposited into the Tacoma Narrows Toll Bridge Account instead of the Motor Vehicle Account.

Votes on Final Passage:

Senate	40	0
House	95	0

Effective: June 7, 2006

SSB 6676
C 291 L 06

Prohibiting fraudulent filings of vehicle reports of sale.

By Senate Committee on Judiciary (originally sponsored by Senators Roach, Kline, Mulliken, Fairley and Rasmussen).

Senate Committee on Judiciary
House Committee on Criminal Justice & Corrections

Background: Washington law requires submission of a report of sale by any person or business that transfers their interest in a Washington titled vehicle to anyone else. Transferring interest in a vehicle includes selling, gifting, trading, privately or into a dealer, or disposing of the vehicle. A properly completed report of sale releases the seller from personal liability for vehicle towing and storage charges if the vehicle is abandoned or towed after the sale.

A purchaser or transferee of a vehicle is required to make application to transfer the certificate of ownership and license registration within 15 days after the date of delivery of the vehicle. After the 15 day period, he or she will be assessed a $25 penalty on the 16th day and a $2 penalty for each additional day after, not to exceed $100. This penalty may be waived when an application for transfer is delayed for reasons beyond the control of the purchaser.

It has been reported that there is an increasing number of people who hope to rid themselves of their vehicles by leaving them in front of another person's house and filing a vehicle report of sale with the goal of transferring ownership of the vehicles.

Summary: A person who files a vehicle report of sale without the knowledge of the transferee is guilty of fraudulent filing of a vehicle report of sale. If the unknowing transferee, or victim, incurred damages in an amount less than $250, the transferor is guilty of a gross misdemeanor. If the monetary damage to the victim is more than $250 but less than $1500, the transferor is guilty of a class C felony. Fraudulent filing of a vehicle report of sale is a class B felony if the victim incurred damages in an amount great than $1500.

The penalty for delay of application of transfer will be waived if the transferee had no knowledge of the filing of the vehicle report of sale and signs an affidavit to that fact. When a transferee had no knowledge of the filing of the vehicle report of sale, he or she is relieved of civil or criminal liability for the operation of the vehicle and liability is transferred to the seller shown on the report of sale.

Votes on Final Passage:

Senate	45	2
House	98	0

Effective: June 7, 2006

ESSB 6679
C 70 L 06

Revising the provisions regulating train speeds.

By Senate Committee on Transportation (originally sponsored by Senator Haugen).

Senate Committee on Transportation
House Committee on Transportation

Background: The Federal Railroad Safety Act (FRSA) preempts state or local regulation of railroad safety. Federal regulations enacted pursuant to FRSA prescribe operating speed limits for each class of railroad track.

Federal law provides that a state may adopt a more stringent standard with respect to railroad safety and security when the standard: 1) is necessary to eliminate or reduce an essentially local safety or security hazard; 2) is not incompatible with federal law; and 3) does not unreasonably burden interstate commerce.

Under current Washington law, the Washington Utilities and Transportation Commission regulates the speed of railway trains, other than street railways, within the limits of cities and towns, and at grade crossings. The speed limits established by the commission are: 1) discretionary; 2) may be different for different cities, towns, or grade crossings; and 3) must be commensurate with the hazard presented and the practical operation of trains.

Rules promulgated by the commission acknowledge federal preemption of train speed regulation, and constrain the commission's regulation of train speeds to fixing lower train speed limits those allowed by federal law only where the commission finds that: 1) a local safety hazard exists; and 2) that reduction of the train speed is necessary to eliminate or reduce that hazard.

Summary: The provisions vesting authority to regulate railway speeds in the commission are modified and made subject to federal preemption regarding train speed regulation.

Any speed limit that was fixed by the commission prior to the effective date of the bill without a finding permitted under federal law has no effect.

Before increasing operating speeds, a railroad operator must provide 60 days written notice to the commission, and the applicable local government or road authority. The notice must include specified details regarding the proposed speed increase. After 60 days, the railroad operator may increase operating speed as proposed unless the commission has determined that a lower limit is necessary to address local conditions consistent with federal law. If the railroad operator disputes the commission's determination regarding the need for a lower limit to address local conditions, then the matter will be scheduled for a hearing before the commission.

A railroad operator may provide no more than five notices in any 60 day period without the consent of the commission.

Votes on Final Passage:

Senate	48	0
House	98	0

Effective: June 7, 2006

SB 6680
C 292 L 06

Implementing a biometric matching system for driver's licenses and identicards.

By Senators Brandland, Haugen and Rasmussen.

Senate Committee on Transportation
House Committee on Transportation

Background: State law requires that the Department of Licensing (DOL) implement a highly accurate one-to-one biometric matching system by January 1, 2006. When the biometric driver's license and identicard system is established, the department must allow every person applying for an original, renewal, or duplicate driver's license or identicard the option of submitting a biometric identifier. The fee for applying a biometric identifier to a driver's license or identicard is 2 dollars.

DOL may not disclose biometric information to the public or any governmental entity except, when authorized by court order.

In May of 2005, Congress passed legislation known informally as the Real ID Act. The Real ID Act sets new standards for state issued driver's licenses and identicards. States must meet the new standards by May 11, 2008. Driver's licenses and identicards issued by states that fail to meet the deadline will no longer be accepted for federal purposes, such as boarding an aircraft.

Summary: The implementation date for the DOL biometric matching system is delayed until two years after Washington implements the provisions of the federal Real ID Act.

The requirement that the owner of a driver's license or personal identification card be allowed to present a personal identification number before a third party may verify the biometric data is clarified to apply to verification by governmental entities as well.

Votes on Final Passage:

Senate	47	0	
House	98	0	(House amended)
Senate			(Senate refused to concur)
House			(House insisted on position)
Senate	49	0	(Senate concurred)

Effective: June 7, 2006

SSB 6686
C 361 L 06

Authorizing a local sales and use tax that is credited against the state sales and use tax.

By Senate Committee on Ways & Means (originally sponsored by Senators Prentice, Esser, Kastama, Johnson, Kline, Finkbeiner, Weinstein, Keiser, Berkey and McAuliffe).

Senate Committee on Ways & Means
House Committee on Finance

Background: Under the state's Growth Management Act, counties establish urban growth areas (UGAs) in collaboration with cities. Within a UGA, counties are the providers of regional services, and cities are the providers of local services, until the UGA either becomes part of an existing city through annexation or incorporates. In 2004, the Legislature directed the Department of Community, Trade, and Economic Development (CTED) to study the progress of annexation and incorporation in six urban counties and to identify both barriers and incentives to fully achieving annexation or incorporation of the UGAs in these counties. Lack of funding for municipal services during the transition period following annexation was one of the barriers identified by cities, and a temporary utility surtax was one of the incentives.

Summary: Beginning July 1, 2007, a city with a population less than 400,000 and which is located in a county with a population greater than 600,000 that annexes an area consistent with its comprehensive plan may impose a sales or use tax. The tax must be taken as a credit against the sales tax, so it will not be an additional tax to a consumer.

In order to qualify for the tax, the city commences annexation of an area having a population of over 10,000 prior to January 1, 2010, and must determine by resolution or ordinance that the projected cost to provide services to the annexation area exceeds the projected revenue from the annexation area.

The rate of the tax is 0.1 percent for each annexation area with a population over 10,000 and 0.2 percent for an annexation area over 20,000. The maximum rate of credit the city can impose is 0.2 percent. The tax imposed must only be imposed at the beginning of a fiscal year and must continue for no more than ten years from the date it is imposed.

All revenue from the tax must be used to provide, maintain, and operate municipal services for the annexation area. The revenues may not exceed the difference of that which the city deems necessary to provide services for the annexation area and the general revenue received from the annexation. If the revenues due exceed that which is needed to provide the services, the tax must be suspended for the remainder of the fiscal year.

Prior to March 1st of each year, the city must notify the department of the maximum amount of distributions it is allowed to receive for the upcoming fiscal year.

Votes on Final Passage:

Senate	38	10
House	75	23

Effective: June 7, 2006

SSB 6717
C 293 L 06

Extending the joint task force on criminal background check processes.

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Kohl-Welles, Brandland, McAuliffe, Hargrove, Rockefeller, Shin, Rasmussen, Schmidt and Stevens).

Senate Committee on Human Services & Corrections
House Committee on Criminal Justice & Corrections

Background: Criminal history record information background checks are conducted for employment and licensing decisions and many other purposes related to the security of persons and property. In 2004, the Washington State Legislature passed ESHB 2556 (Chapter 41 of the Laws of 2004). This bill created a Joint Task Force on Criminal Background Check Processes to make recommendations to the Legislature and the Governor regarding how to improve the state's criminal back-

ground check processes. In 2005, the Legislature passed SHB 1681 (Chapter 452 of the Laws of 2005) which extended the work of the task force through the end of 2005.

The task force held six public meetings in 2004 and made recommendations. In 2005, the task force once again held six public meetings and made six recommendations to be addressed in the 2006 legislative session, including extending the work of the task force for one additional year. In addition to the recommendations for the 2006 legislative session, the task force also identified two long-term objectives.

Summary: The statute creating the task force is extended for an additional year. A representative of the Washington Association of Criminal Defense Lawyers is added to the membership of the task force. The task force is authorized to continue its work until December 31, 2006, at which time it must report its findings and recommendations to the Legislature.

Votes on Final Passage:

Senate	46	0
House	98	0

Effective: June 7, 2006

SB 6720
C 294 L 06

Revising reporting requirements for criminal history record information.

By Senators Brandland, Kohl-Welles, McAuliffe, Hargrove, Rockefeller, Schmidt, Rasmussen, Stevens, Delvin and Roach.

Senate Committee on Human Services & Corrections
House Committee on Criminal Justice & Corrections

Background: A Joint Task Force on Criminal Background Check Processes was created by the 2004 legislative session. The task force reported to the Legislature in January 2005, making several recommendations for improvements to the law and requesting the term of the task force be extended in order to consider matters that were raised at the 2004 meetings but required further analysis and discussion. The task force was extended to December 2005 per SHB 1681.

In 2005, the Legislature passed SSB 5899, which eliminated certain provisions requiring that civil and administrative decisions be sent to the Washington State Patrol (WSP). The task force had discovered that, as a practical matter, the decisions were not being forwarded to WSP or could not be integrated into WSP's criminal history records because they did not contain fingerprint records.

Summary: Technical corrections to statutory language are made consistent with legislation that passed the Legislature last year. Dependency record information and protection proceeding record information are no longer required to be sent to WSP, and references to this information are eliminated, accordingly.

Votes on Final Passage:

Senate	43	0
House	98	0

Effective: June 7, 2006

SB 6723
C 345 L 06

Determining the retirement allowance of a member who is killed in the course of employment.

By Senators Eide, Delvin, Keiser, Kohl-Welles and Rasmussen; by request of LEOFF Plan 2 Retirement Board.

Senate Committee on Ways & Means
House Committee on Appropriations

Background: Retired or disabled employees of the state, school districts, and participating political subdivisions may purchase health care benefits from the Public Employees' Benefits Board (PEBB), administered by the Health Care Authority (HCA). This coverage is purchased at full cost based on the risk pool that the participants belong to, and includes administrative costs for each participant. Participants eligible for Medicare are placed in one risk pool, and all other retired or disabled participants are placed in a risk pool along with active employees. Groups are charged based on their per capita costs incurred by the risk pool they belong to, minus an explicit subsidy in the case of Medicare-eligible participants.

The 2001 Legislature enacted Engrossed Substitute House Bill 1371, which enabled surviving spouses of emergency service personnel killed in the line of duty on or after January 1, 1998, to purchase health care benefits from the PEBB. "Emergency service personnel" for this purpose includes fire fighter and law enforcement members of the Law Enforcement Officers' and Fire Fighters' Retirement System and the Volunteer Fire Fighters' and Reserve Officers' Relief and Pension System. The cost of the insurance is paid by the surviving spouses and dependent children.

Summary: The retirement allowance paid to survivors of all LEOFF 2 members killed in the course of employment includes reimbursement for the cost of participating in a PEBB health insurance plan. The survivors of members killed in the line of duty prior to January 1, 1998, as well as on or after January 1, 1998, are eligible to participate in PEBB health insurance plans.

There is no contractual right to reimbursement for the health care insurance costs, and the Legislature reserves the right to amend or repeal this act for future reimbursements.

Votes on Final Passage:

Senate	47	0
House	95	0

Effective: June 7, 2006

SB 6731
C 250 L 06

Prohibiting sellers of travel from promoting travel for sex tourism.

By Senators Fraser, Kohl-Welles, Deccio, Fairley, Mulliken, Prentice, Roach, Honeyford, McAuliffe, Keiser, Regala, Delvin, Franklin, Shin, Sheldon, Berkey, Rasmussen, Haugen, Thibaudeau, Kline and Parlette.

Senate Committee on Labor, Commerce, Research & Development
House Committee on Commerce & Labor

Background: The sex industry involves sexual exploitation of people, including activities related to prostitution, pornography, sex tourism, and other commercial sexual services.

Currently, there is no law that specifically prohibits sellers of travel from organizing, facilitating, or promoting sex tourism.

Summary: A person commits the offense of promoting travel for prostitution if the person knowingly sells or offers to sell travel services that include or facilitate travel for the purpose of engaging in what would be considered patronizing a prostitute or promoting prostitution, if occurring in Washington. This offense is a class C felony.

No seller of travel is to promote travel for prostitution or sell or advertise travel services for the purposes of: engaging in a commercial sex act; offering sex acts as an enticement for tourism; or facilitating the availability of sex acts or escorts.

Votes on Final Passage:

Senate	47	0	
House	98	0	(House amended)
Senate	48	0	(Senate concurred)

Effective: June 7, 2006

ESB 6741
C 251 L 06

Regarding the joint task force on the administration and delivery of services to children.

By Senators Stevens, Hargrove, Carrell, Brandland and Rasmussen.

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

Background: The Children's Administration (CA) and the Juvenile Rehabilitation Administration (JRA) are currently two separate administrations within a larger agency, the Department of Social and Health Services (DSHS). CA and JRA are each led by an assistant secretary who reports to the Secretary of DSHS. CA provides and oversees services to families with children regarding their safety and placement. JRA operates the state's juvenile rehabilitation facilities and related functions.

DSHS was created in 1970 to combine the powers, duties, and functions vested in the existing Departments of Public Assistance, Institutions, Veterans Rehabilitation Council, and Vocational Rehabilitation. DSHS currently provides services to other needy populations through the Aging and Disability Services Administration (providing residential, home, and community services for these populations), the Economic Services Administration (providing financial assistance through public assistance and employment programs, child support, and child care), the Health and Rehabilitative Services Administration (providing mental health, alcohol and substance abuse, deaf and hard of hearing, vocational rehabilitation, and civil commitment services) and the Medical Assistance Administration (providing medicaid, medicare, and related services).

In 2005, the Legislature created a task force to determine the most appropriate and effective administrative structure for delivery of social and health services to children and families. This task force was to compare the effectiveness of service delivery as part of an umbrella agency as well as service delivery as a separate entity and examine administrative structures used to deliver the same services in other states. The task force met several times over the interim. The task force requested an extension of the deadline to report findings to the Governor and the Legislature and an expansion of its membership.

Summary: Membership of the task force created to examine the delivery of services to children and families is expanded to include representatives of the Office of Superintendent of Public Instruction and the Office of Public Defense. Representatives of the House Office of Program Research and Senate Committee Services must provide staff support and may provide consultation services to the task force. The task force must report its recommendations to the Governor and the Legislature by December 1, 2006.

Votes on Final Passage:

Senate	45	0	
House	98	0	(House amended)
Senate	48	0	(Senate concurred)

Effective: June 7, 2006

SB 6762
C 331 L 06

Limiting the posting of hazards to motorcycles to paved roadways.

By Senators Mulliken, Benson, Schoesler and Sheldon.

Senate Committee on Transportation
House Committee on Transportation

Background: Under current law, when construction, repair, or maintenance work is conducted on public highways, county roads, streets, or bridges and the work interferes with the normal and established mode of travel, the location must be properly posted by prominently displayed signs or flagmen or both. If the construction, repair, or maintenance work includes or uses grooved pavement, abrupt lane edges, steel plates, or gravel or earth surfaces, signs must be posted warning motorcyclists of the potential hazard. The department must adopt by rule a uniform sign(s) for this purpose including at least the language "MOTORCYCLES USE EXTREME CAUTION."

Summary: Work zone signs, warning motorcyclists of potential hazards, are only required in areas where the hazard or condition exists on a paved public highway, county road, street, bridge, or other thoroughfare commonly traveled.

Votes on Final Passage:

Senate	41	0
House	98	0

Effective: June 7, 2006

SB 6766
C 71 L 06

Regarding the national guard conditional scholarship.

By Senators Schmidt, McAuliffe and Rasmussen.

Senate Committee on Early Learning, K-12 & Higher Education
House Committee on Higher Education & Workforce Education

Background: The Washington State National Guard Conditional Scholarship Program was created during the 1994 Legislative session. The program, which is administered by the Office of the Adjutant General of the state military department, allows eligible members of the National Guard to receive conditional scholarships to attend an institution of higher education in Washington. The student may attend any Washington public or private college or university accredited by the Northwest Association of Schools and Colleges. Participants must repay the scholarship, with interest, unless they serve in the National Guard for one additional year for each year of scholarship received.

The federal Montgomery GI Bill, which was originally enacted in 1944, provides education benefits that may be used while on active duty or after separation from active duty and to members of the reserves or the National Guard. Eligibility criteria and educational benefits vary depending on the type and date of enlistment and on the nature of the educational program. For example, one of the programs, the Montgomery GI Bill - Selected Reserve, may be available to members of the Army National Guard and the Air National Guard for degree and certificate programs, flight training, apprenticeship/on-the-job training, and correspondence courses.

Summary: For the purposes of the National Guard Conditional Scholarship Program, the definition of an eligible student is expanded to include any student that attends an institution that is located in Washington that provides approved training under the Montgomery G.I. Bill. The Office of the Adjutant General of the state military department is authorized to adopt rules and guidelines including establishing a priority for eligible students attending an institution of higher education located in this state that is accredited by the Northwest Association of Schools and Colleges.

Votes on Final Passage:

Senate	47	0
House	98	0

Effective: June 7, 2006

SSB 6775
C 125 L 06

Creating the crime of criminal trespass against children.

By Senate Committee on Human Services & Corrections (originally sponsored by Senators Hargrove, Stevens, Rasmussen and McAuliffe; by request of Attorney General).

Senate Committee on Human Services & Corrections
House Committee on Criminal Justice & Corrections

Background: The Consequences of a Conviction on the Basis of Committing a Sex Offense. Washington law identifies certain crimes as sex offenses for purposes of sentencing. The Legislature has established a whole series of consequences that are associated with being sentenced as a sex offender. For example, a person sentenced as a sex offender is not eligible for certain sentencing alternatives, such as the First Time Offender Waiver or the Drug Offender Sentencing Alternative. Once incarcerated, he or she is not eligible for as much earned early release time as other offenders. After release, he or she must comply with the state's registration requirements and is subject to a mandatory term of community custody and mandatory Department of Corrections supervision in the community. If sentenced for a

subsequent offense, the seriousness level of his or her prior sex offense will be tripled for purposes of sentencing.

The Prohibition Against Ex Post Facto Laws. The *ex post facto* clause of the United States Constitution prohibits the retrospective application of a criminal law to acts that occurred before that law's enactment. Only future conduct may be prohibited by new criminal laws. The *ex post facto* clause also prohibits increasing the punishment of past conduct retroactively. Whether a particular legal consequence is considered "punishment" for purposes of *ex post facto* analysis turns on such factors as whether a person's liberty would be more severely restrained under the application of a new law or regulation. *Miller v. Florida*, 482 US 423 (1987).

The United States Supreme Court has ruled that retrospectively requiring sex offenders to register with a state authority is not a violation of the prohibition on *ex post facto* laws. The Court reasoned that registration serves as a civil, rather than criminal, means of protecting the public and that its effect is not punitive in nature. *Smith v. Doe*, 538 US 84 (2003).

Other Constitutional Considerations. The law protects against criminal laws that are drafted to sweep, within their coverage, activity that is generally innocent or constitutionally protected. For example, curfews that prevent persons under the age of 18 from being in public places after a certain hour have been found unconstitutionally vague on the basis that they do not "provide ascertainable standards for locating the line between innocent and unlawful behavior." *City of Seattle v. Pullman*, 82 Wn.2d 794 (1973). See also, *Nunez v. City of San Diego*, 114 F.3d 935 (9th Cir. 1997). Similarly, the United States Supreme Court determined that Chicago's Gang Congregation Ordinance, which prohibited criminal street gang members from loitering in any public place, was unconstitutionally vague.

Summary: A person working for any public or private facility, the primary purpose of which, at any time, is to provide for the education, care, or recreation of a child or children, may order certain persons from the premises of the facility. The class of persons subject to ejection from public facilities or private businesses is limited to persons who are not currently under Juvenile Rehabilitation Administration (JRA) supervision or serving a Special Sex Offender Disposition Alternative (SSODA) suspended sentence and who are Level II and Level III offenders.

The person who works at the facility must give the person ordered to leave a written notice, informing him or her that he or she must leave and may not return without the written permission of the facility.

If the person who has been ordered to leave refuses to leave or comes back another time, that person may be charged and prosecuted for the crime of criminal trespass against children, a Class C felony, ranked at a Level IV seriousness level for sentencing purposes. The types of facilities that may prohibit a person from entry include, but are not limited to, community and recreational centers, playgrounds, schools, swimming pools, and state or municipal parks.

An owner, employee, or agent of the facility is not liable for any act or omission in connection with ordering persons in the class of offenders covered by the bill to leave the facility or failing to eject covered offenders from covered entities.

The bill contains a legislative intent section and an emergency clause.

Votes on Final Passage:

Senate	44	4	
House	91	7	(House amended)
Senate	47	0	(Senate concurred)

Effective: March 20, 2006

ESSB 6776
C 193 L 06

Prohibiting the unauthorized sale of telephone records.

By Senate Committee on Water, Energy & Environment (originally sponsored by Senators Finkbeiner, Poulsen, Weinstein, Esser, Rasmussen, Keiser, Oke, Kline and Kohl-Welles).

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

Background: Federal and state laws require telecommunications companies to protect a customer's proprietary network information (CPNI), such as the customer's unlisted telephone number, what numbers are called, the length and price of such calls, and information about any subscribed services.

It has recently been reported that third-party data brokers have been using unscrupulous techniques, called "pretexting," to fool telecommunications companies into revealing a customer's CPNI. Pretexting includes cracking on-line accounts and impersonating customers. These brokers have been openly advertising on the internet. In July 2005, the Electronic Privacy Information Center, a public interest research center, identified 40 websites selling telephone calling records and other confidential information.

Summary: It is a class C felony to intentionally sell, knowingly purchase, or fraudulently obtain a person's telephone records without the person's permission. It is a gross misdemeanor to knowingly receive a person's telephone records without the person's permission. The Criminal Profiteering Act is amended to include the unauthorized sale or procurement of telephone records, which allows special remedies such as civil forfeiture and treble damages.

The following exceptions are made to the new criminal provisions: (1) any actions by a government agency or its employees in the performance of official duties; and (2) specified actions by a telecommunications company that are necessary to conduct business or are authorized by law or the customer.

In addition to criminal penalties, violators may also be subject to injunctive relief and damages of at least $5,000 per violation. Reasonable attorneys' fees and other costs of litigation are also recoverable.

Various terms are defined, such as "telephone record," which includes telephone numbers and calling records, but does not include caller ID or similar services.

Votes on Final Passage:

Senate 47 0
House 96 0

Effective: June 7, 2006

SSB 6781
FULL VETO

Modifying the excise taxation of environmental remediation services.

By Senate Committee on Ways & Means (originally sponsored by Senators Prentice, Pflug, Fraser, Parlette, Shin and Schoesler).

Senate Committee on Ways & Means
House Committee on Finance

Background: Sales tax is imposed on retail sales of most items of tangible personal property and some services, including construction and repair services. Sales and use taxes are imposed by the state, counties, and cities. Sales and use tax rates vary between 7 and 8.9 percent, depending on location.

Washington's major business tax is the business and occupation (B&O) tax. The B&O tax is imposed on the gross receipts of business activities conducted within the state, without any deduction for the costs of doing business. Although there are several different rates, the most common rates are 0.471 percent for retailing, 0.484 percent for wholesaling, and 1.5 percent for service activity.

In 1998, the Legislature enacted special provisions for the taxation of hazardous waste cleanup projects, which expired in 2003. The retail sales tax did not apply to the sale of labor or services for environmental remedial action. The business and occupation tax rate for businesses performing environmental remedial actions was set at the retailing rate of 0.471 percent.

Activities related to these environmental cleanups are taxed according to traditional B&O tax classifications. Consulting activity, such as site evaluation or monitoring, not related to construction activity would be taxed under the service and other classification at a rate of 1.5 percent. The cleanup activity would be taxed like other construction activity; retail sales tax would be collected from the consumer and the contractor would pay B&O tax at the retailing rate of 0.471 percent.

Summary: The retail sales tax does not apply to the sale of labor or services for environmental remedial action. The business and occupation tax rate for businesses performing environmental remedial actions is set at the retailing rate of 0.471 percent.

"Environmental remedial action" includes services related to identification, investigation, or cleanup of hazardous substances. Environmental remedial actions must be consistent with the state Model Toxics Control Act, or other applicable laws.

The provisions of the bill expire July 1, 2010.

Votes on Final Passage:

Senate 48 0
House 96 1

VETO MESSAGE ON SSB 6781

March 29, 2006

To the Honorable President and Members,
The Senate of the State of Washington

Ladies and Gentlemen:

I am returning, without my approval, Substitute Senate Bill No. 6781 entitled:

"AN ACT Relating to environmental remediation."

This bill would provide sales and business tax incentives for environmental remediation actions.

Cleaning up historic contamination is usually a key step in the redevelopment of our urban lands. However, past tax incentives for environmental remediation did not measurably increase the number of cleanup actions. And for cleanup actions conducted by state agencies and local governments, this bill would inappropriately shift the cost burden from the dedicated toxics cleanup accounts to the state general fund.

For these reasons, I have vetoed Substitute Senate Bill No. 6781 in its entirety.

Respectfully submitted,

Christine O. Gregoire

Christine O. Gregoire
Governor

ESSB 6787
C 332 L 06

Providing funding for local government passenger ferry service.

By Senate Committee on Ways & Means (originally sponsored by Senators Rockefeller, Poulsen, Haugen and Oke).

Senate Committee on Transportation
Senate Committee on Ways & Means

Background: The legislative authority of any county with a population greater than one million persons may

create a passenger-only ferry district. The district is a municipal corporation and the county legislative authority, acting ex officio, is the district's governing body. The district may levy a property tax of up to 75 cents per $1,000 of assessed valuation for ferry district purposes.

There are currently four counties that operate ferries: Skagit, Pierce, Whatcom, and Wahkiakum.

The Washington State Ferry System currently operates a passenger-only ferry route between Vashon Island and Seattle.

Summary: Washington State Department of Transportation (WSDOT) is directed to continue the existing Vashon to Seattle passenger-only ferry (POF) service until it is assumed by a county ferry district. Counties wishing to assume that route must submit a business plan to the Legislature and the Governor. If the Governor approves the business plan, the county ferry district is eligible for grant funding. A county ferry district assuming the Vashon to Seattle POF route must honor existing labor agreements, may not contract out operations, and must begin operations July 1, 2007.

The Office of Financial Management is directed to contract to develop a non-state government operated back-up plan for continuing service on the Vashon to Seattle POF route.

WSDOT is directed to collaborate with new and potential POF service providers for terminal operations at its terminal facilities.

WSDOT is required to sell or otherwise dispose of the state passenger ferries Snohomish and Chinook if the business plan to assume the Vashon to Seattle POF route is approved by the Governor. The proceeds of the sales are to be deposited into the passenger ferry account.

WSDOT is directed to establish a ferry grant program. Eligible for the grants are county ferry districts and public transportation benefit areas. Priority must be given to grant applicants that provide continuity of existing passenger-only service and provide local or federal matching funds.

Before seeking grant funding for the Kingston to Seattle POF route, a Public Transportation Benefit Area must receive governor approval on a business plan submitted to the Legislature and the Governor.

County ferry district statutes are broadened so that they may be formed in any county. In addition, the county ferry district statutes apply to all ferries and not just passenger-only ferries.

The Utilities and Transportation Commission moratorium on accepting new applications for additional private POF service into King County is extended by one year.

Votes on Final Passage:

Senate	46	1	
House	61	37	(House amended)
Senate	43	3	(Senate concurred)

Effective: June 7, 2006

SSB 6791
C 362 L 06

Concerning liquor licenses issued to entities providing concession services on ferries.

By Senate Committee on Labor, Commerce, Research & Development (originally sponsored by Senators Poulsen, Kohl-Welles and Rockefeller).

Senate Committee on Labor, Commerce, Research & Development
House Committee on Commerce & Labor

Background: The entity with whom the Washington State Ferries contracts to provide concession services on a state ferry must obtain a liquor license in order to serve alcohol on the vessel. The Liquor Control Board requires that a separate license be issued for each vessel upon which alcohol will be served. If the vessel for which the license is issued is out of commission and a substitute vessel is brought in temporarily, the entity providing concession services cannot serve alcohol on the substitute vessel.

Summary: If a beer and/or wine restaurant license is issued to a person who contracts with the Washington state ferry system to provide food and alcohol services on a designated ferry route, the license must cover any vessel assigned to that route.

Votes on Final Passage:

Senate	37	6
House	72	24

Effective: June 7, 2006

2SSB 6793
C 333 L 06

Specifying roles and responsibilities with respect to the treatment of persons with mental disorders.

By Senate Committee on Ways & Means (originally sponsored by Senators Hargrove, Brown, Brandland, McAuliffe, Thibaudeau, Rockefeller and Rasmussen).

Senate Committee on Human Services & Corrections
Senate Committee on Ways & Means

Background: Publicly funded mental health services for adults are provided by the state and local entities. Currently, the state provides long-term care at two psychiatric hospitals, designed to serve persons with mental disorders who are committed for long-term care (civil commitment orders for periods of 90 or 180 days) or who voluntarily agree to remain at the state hospital. There are fourteen Regional Support Networks (RSNs) that provide outpatient and short-term care (civil commitment periods for up to 17 days).

In October 2005, a Superior Court judge ruled that persons who are civilly committed to a state hospital for

long-term care are the responsibility of the state. The Department of Social and Health Services (DSHS) must either promptly admit the person to the state hospital or, if the person is in a community facility pending admission to the state hospital, DSHS cannot apply the cost of that care against the RSN contract. The court also held that DSHS did not have the statutory authority to automatically require RSNs to reimburse the state for using more state hospital beds than RSN had contracted with the state to use.

In 2005, the Legislature passed ESSHB 1290, requiring DSHS to implement a request for qualifications (RFQ) process for each of the fourteen RSNs. This process was completed in December 2005. Nine of the fourteen RSNs successfully met the threshold of the RFQ. Concerns have been expressed about the lack of opportunity for corrective action and the manner in which the RFQ was conducted.

Summary: The state is responsible for treatment services for all long-term intensive inpatient care. RSNs must serve at least 90 percent of short-term commitments locally. RSNs are financially responsible for all individuals on the grounds of the state mental hospitals who are voluntary patients receiving less restrictive alternative care, or who are subject to a less restrictive alternative order, except at the discretion of the Secretary of DSHS, or to the extent otherwise provided in the budget. RSNs must be notified of petitions for long-term commitment, and have the option of testifying at commitment hearings.

Each RSN must receive an allocated number of state hospital beds that are available for its use at no cost to the RSN. An individual RSN must reimburse the department if it uses more than its allocated or contracted number of bed days. One half of those funds is distributed to RSNs who use less than their contracted number of beds at the state hospital; the other half is used for state hospital operating costs. The initial allocation is to be based upon a recommendation from RSNs. If RSNs do not reach a consensus, DSHS is directed to allocate state hospital beds and comparable community diversion resources among RSNs. That allocation must be made according to the estimated number of acutely and chronically mentally ill adults in area covered by each RSN. RSNs and DSHS are encouraged to enter performance-based contracts under which an RSN will receive state funding to provide community alternatives to some or all of the beds RSN would otherwise be allocated at the state hospital.

RSNs' ability to seek judicial remedies to resolve disputes with the state regarding the allocation of funds, the allocation of state hospital beds, and payment for inpatient care is limited. Disputes are to be resolved according to procedures specified in contract. Contracts must include negotiated provisions for alternative dispute resolution.

DSHS's authority to withhold 2 percent of appropriated funds to provide incentives for improved performance is removed. Funds are to be allocated in accordance with terms and conditions specified in the budget act. The provisions regarding the request for proposals are expanded to include a scoring factor that considers the bidding entities' demonstrated commitment to supplement the financial resources provided by the state.

Votes on Final Passage:

Senate	45	0	
House	97	0	(House amended)
Senate	46	0	(Senate concurred)

Effective: March 29, 2006 (Sections 101-103, 107, 202 and 301)
July 1, 2006

ESSB 6800
C 334 L 06

Refining the roles of the transportation commission and department of transportation.

By Senate Committee on Transportation (originally sponsored by Senators Haugen, Jacobsen and Rockefeller; by request of Governor Gregoire).

Senate Committee on Transportation
House Committee on Transportation

Background: During the 2005 legislation session, ESB 5513 was enacted restructuring statewide transportation governance. The Washington State Department of Transportation (WSDOT) was made a cabinet level agency and the Secretary of Transportation was appointed by the Governor, serving at the pleasure of the Governor. The Secretary assumed authority previously directed to the Washington Transportation Commission to propose the WSDOT agency budget and to authorize departmental request legislation.

The commission retained certain authority, including statewide transportation planning, bond issuance approval, serving as the state's tolling authority, setting ferry fares, and sharing responsibility for project selection and funding. Additionally, the commission received an expanded role as a public forum for transportation policy development.

The Transportation Performance Audit Board (TPAB) was granted separate authority to direct performance audits, and its authority regarding directed agency reviews, and functional and performance audits, was expanded to include certain local transportation entities. However, on November 8, 2005, voters approved Initiative 900 requiring the State Auditor to conduct performance audits of state and local governments, including "state and local transportation governmental entities and each of their agencies, accounts, and programs . . . ." I-900 dedicates a percentage of the state sales and use tax

for this purpose. Additionally, the 2005 transportation revenue bill (ESSB 6103) authorized the State Auditor to conduct performance audits for transportation-related agencies and appropriated $4 million for this purpose.

Summary: The roles and responsibilities of WSDOT and the commission are revised.

WSDOT obtains the following responsibilities, in addition to various administrative duties, from the commission: (1) approving bond issuance; and (2) adopting a functional classification of highways, including the designation of highways of statewide significance.

The commission has the following responsibilities (among others):

- adopting the comprehensive and balanced statewide transportation plan, which must reflect the priorities of government developed by the Office of Financial Management, to be approved by the Legislature in the biennial budget;
- developing a comprehensive investment program, including programming and prioritization standards, subject to approval by the Legislature in the biennial budget;
- overseeing the Transportation Innovative Partnership Program, which includes considering recommendations from expert review panels relative to selected projects;
- conducting performance reviews of transportation-related agencies;
- conducting public outreach;
- conducting studies as directed by the Legislature or the Governor;
- setting tolls and ferry fares; and
- recommending to the Governor and the Legislature improvements in certain transportation issue areas.

The composition, and procedures, of the commission are revised as follows: (1) commissioners may be removed by the Governor "for cause"; (2) the Governor, or his/her designee, is added as a nonvoting member; (3) the specific partisan membership limitation is removed; (4) the required minimum number of meeting days is revised; and (5) the maximum number of days for reimbursement of expenses is revised.

The TPAB is repealed.

Votes on Final Passage:

Senate	39	0	
House	57	4	(House amended)
Senate			(Senate refused to concur)
House	83	1	(House amended)
Senate	43	0	(Senate concurred)

Effective: July 1, 2006

ESSB 6802
C 227 L 06

Regarding air pollution control authority boards.

By Senate Committee on Water, Energy & Environment (originally sponsored by Senator Brown).

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

Background: Local air pollution control authorities (authorities) are established by the Washington Clean Air Act. Each authority is a municipal corporation that is responsible for carrying out specified duties relating to the prevention and control of air pollution. Each of Washington's 39 counties has an authority created within it; however, some county authorities are inactive and are served by the Department of Ecology's Air Quality Program.

Each authority is governed by a board of directors (board). In the case of an authority comprised of one county, the board must be comprised of two appointees of a city selection committee, at least one of whom must represent the city having the most population in the county, and two representatives to be designated by the board of county commissioners. These members then elect an additional member who is either a member of the governing body of one of the towns, cities, or counties comprising the authority, or a private citizen residing in the authority. The city selection committee for each county is composed of the mayor of each incorporated city and town within the county.

Summary: Boards governing a single-county authority, with a population of 400,000 or more people, are comprised of: (1) three appointees of cities, one each from the two cities with the most population in the county and one appointee of the city selection committee representing the other cities; and (2) one representative designated by the board of county commissioners. These members then elect an additional citizen member who is a county resident and who has significant professional experience in the field of public health, air quality protection, or meteorology.

The membership of the city selection committee, for a single county, consists of the mayor of each incorporated city and town within the county, except for the mayors of the cities with the most population who have already designated appointees to the board.

Votes on Final Passage:

Senate	36	5
House	98	0

Effective: June 7, 2006

SSB 6806
C 295 L 06

Establishing the domestic violence hope card study committee.

By Senate Committee on Judiciary (originally sponsored by Senators Esser, Hargrove, Brandland, Johnson and Rasmussen).

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

Background: Domestic violence encompasses a wide range of acts committed by one partner against another in a relationship. It may occur in a variety of relationships: married, separated, divorced, dating, heterosexual, gay, or lesbian.

There are several types of protective orders, including restraining orders, no-contact orders, and antiharassment protection orders. In all protective orders, the person restrained may be prohibited from disturbing the peace of the other party, going onto the grounds or entering the home, workplace, or school of the other party, or daycare or school of any child. In addition, a protective order often restrains a person from knowingly coming within, or knowingly remaining within, a specified distance from a location.

Summary: The domestic violence hope card study committee is created. It is directed to review the practicality of requiring the statewide distribution of wallet-size cards to victims of domestic violence that document the existence and contents of a protection order and provide identifying information about the respondent, including a photograph. The wallet-size card will contain contact information regarding the courts, domestic violence services, and law enforcement.

The committee will review what information is currently statutorily required to be provided to victims of domestic violence and whether victims are currently receiving the information. The costs involved with the implementation of such a program will be studied, as well as how it could best be implemented statewide. The twelve members of the domestic violence hope card study committee are enumerated in the legislation and a committee report is required to be delivered to the Legislature by December 31, 2006.

Votes on Final Passage:

Senate	45	0	
House	98	0	(House amended)
Senate	48	0	(Senate concurred)

Effective: June 7, 2006

SB 6816
C 335 L 06

Allowing county cemetery districts to include areas within cities and towns.

By Senator Zarelli.

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

Background: A cemetery district may include within its boundaries any city or town with a population of less than 10,000. The 10,000 limit was added in 1994 during a re-organization of statutes governing cities. Pre-1994, there was no population limit; rather, a cemetery district could include towns and up to third class cities. The 1994 bill eliminated fourth class cities and made third class cities second class cities since there were no second class cities at the time. In place of the third class threshold, the Legislature established the 10,000 population threshold.

Summary: The 10,000 population limit for cities that can be included in a cemetery district is removed.

Votes on Final Passage:

Senate	47	0
House	97	0

Effective: June 7, 2006

2SSB 6823
C 302 L 06

Modifying provisions relating to the distribution of beer and wine.

By Senate Committee on Ways & Means (originally sponsored by Senator Kohl-Welles; by request of Liquor Control Board).

Senate Committee on Labor, Commerce, Research & Development
Senate Committee on Ways & Means
House Committee on Commerce & Labor
House Committee on Appropriations

Background: Domestic wineries, breweries, and micro breweries can distribute their own products directly to retailers in this state; they do not have to use a distributor. Out-of-state wineries and breweries, on the other hand, must use a licensed distributor to distribute their products to retailers in this state.

In-state wineries, breweries, and micro breweries who choose to distribute their own products to retailers cannot use a common carrier to do so. Either the retailer must pick up the products directly from the manufacturer or the manufacturer must directly deliver the product to the retailer.

Any out-of-state winery or brewery must obtain a

certificate of approval from the Liquor Control Board (LCB) before being able to sell its product to an in-state distributor.

Distributors of wine or beer must report to the LCB by the 20th of every month all purchases during the preceding calendar month. Retail beer and wine licensees may purchase beer or wine only from licensed distributors or the LCB. Distributors may only purchase beer or wine from other licensed distributors or importers.

The distributor must deliver beer and wine to the retailer by delivering it to either the retailer's licensed premises (the store) or by having the retailer pick up the product at the distributor's warehouse.

The prices filed by the brewery or winery or certificate of approval holder must be uniform prices to all distributors. All in-state wineries and breweries who distribute their products to retailers must pay required taxes.

On December 21, 2005, in the matter of *Costco Wholesale Corp. v. Roger Hoen, et al.*, federal district court judge Marsha Pechman ruled that Washington's statute permitting in-state wineries and breweries to distribute their own products to in-state retailers while not allowing out-of-state wineries and breweries to do the same was unconstitutional as a violation of the Commerce Clause of the United States Constitution. Judge Pechman stayed her order until April 14, 2006, to allow the Legislature to take action.

Summary: An in-state or out-of-state winery, brewery, or microbrewery may act as a distributor of its production. Out-of-state producers may distribute their product directly to the retailer, use a distributor, or a retailer may hire a common carrier to pick up the product from the producer and deliver it to the retailer (these are the current delivery options permitted for in-state producers).

Out-of-state wineries and breweries who distribute their products directly to retailers are responsible to pay the same taxes that in-state wineries and breweries currently pay when they distribute their products directly to retailers.

A retailer who is authorized to purchase wine or beer from an out-of-state winery must make monthly reports to the LCB on wine or beer purchased during the preceding calendar month. Beer or wine retail licensees may only purchase beer or wine from licensed distributors, in-state wineries or breweries, certificate of approval holders (out-of-state wineries or breweries) or the LCB. Breweries, wineries, and beer or wine distributors may only buy beer or wine from another duly licensed distributor or importer or certificate of approval holder.

Prices filed by an in-state brewery or winery or out-of-state brewery or winery must be uniform to all distributors and retailers.

The Public Disclosure Act is amended to exempt from disclosure financial or proprietary information relating to sales to retailers from producers and amounts producers have shipped to Washington.

The LCB must conduct a study of the current three tier and tied house systems and whether the systems should be modified or updated. The LCB must work closely with stakeholders in conducting the study, and report to the Legislature on its findings and recommendations by December 15, 2006.

The act expires on June 30, 2008.

Votes on Final Passage:

Senate	48	0
House	98	0

Effective: April 14, 2006
July 1, 2006 (Sections 10 and 12)

SB 6826
C 336 L 06

Exempting fees and charges for public transportation services from public utility taxes.

By Senator Benton.

Senate Committee on Transportation
Senate Committee on Ways & Means
House Committee on Finance

Background: Public and private entities who transport people or goods for hire are subject to the public utility tax. The measure of the tax is the gross receipts of the business for providing transportation for hire. Under current state law, certain deductions are provided to public transit services when calculating gross receipts upon which state public utility taxes are levied.

Summary: This bill allows fare-box revenue collected by county, city, and public transportation that benefit district transit agencies to also be deducted from the gross receipts upon which state public utility taxes are levied.

Votes on Final Passage:

Senate	46	0	
House	98	0	(House amended)
Senate	48	0	(Senate concurred)

Effective: June 7, 2006

ESSB 6839
C 337 L 06

Modifying transportation accounts and revenue distributions.

By Senate Committee on Transportation (originally sponsored by Senator Haugen).

Senate Committee on Transportation
House Committee on Transportation

Background: The sixteen-year transportation financial plan enacted by the Legislature in 2005 relies on numer-

ous, ongoing budgetary transfers to support planned expenditures.

The 2005 transportation revenue bill (ESSB 6103) authorized the State Auditor to conduct performance audits for transportation-related agencies and appropriated $4 million for this purpose. However, on November 8, 2005, voters approved Initiative 900 (I-900) requiring the State Auditor to conduct performance audits of state and local governments, including "state and local transportation governmental entities and each of their agencies, accounts and programs...." I-900 dedicates a percentage of the state sales and use tax for this purpose.

ESSB 6103 also included language stating that if a regional transportation funding plan has not been adopted by 2007, the Legislature intends to reprioritize allocation of funding for projects identified in the 2005 financial plan.

Summary: Planned, future transfers in support of the 2005 financial plan are codified as statutory distributions. Two funds are also created in support of the financial plan including the Freight Mobility Multimodal Account and the Regional Mobility Grant Program Account. Both accounts are subject to appropriation and retain their own interest.

In response to the passage of I-900 and subsequent elimination of the Transportation Performance Audit Board (TPAB), all references to TPAB are removed from ESSB 6103. Language concerning legislative intent to reprioritize the state transportation financial plan if a regional transportation funding plan is not adopted by 2007 is also repealed.

Lastly, Capron Act fuel tax refunds are capped at the twenty-three cents per gallon fuel excise tax rate. Fuel tax receipts above the twenty-three cents per gallon excise tax rate from the affected counties are deposited to the Puget Sound Ferry Operations Account as a means to limit future ferry-fare increases to two-and-one-half percent per biennium.

Votes on Final Passage:

Senate	26	15	
House	92	6	(House amended)
Senate			(Senate refused to concur)
Conference Committee			
House	92	6	
Senate	44	2	

Effective: March 24, 2006 (Section 7)
July 1, 2006 (Section 1 and 11)
June 7, 2006

SSB 6840
C 194 L 06

Modifying energy efficiency provisions.

By Senate Committee on Water, Energy & Environment (originally sponsored by Senators Morton and Poulsen).

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

Background: In 2005, the Legislature adopted minimum energy efficiency standards for 12 electrical products, which were not at that time covered by federal law. The following four products were included in the state standards:

- *illuminated exit signs*, such as those used in public buildings to mark exit doors;
- *low-voltage dry-type distribution transformers*, which are devices that reduce electrical voltage and are often found in electrical closets of office buildings;
- *torchieres*, which are portable lamps used to provide indirect lighting; and
- *traffic signal modules*, which are used in street and highway traffic signals.

In October 2005, the U.S. Department of Energy published efficiency standards for the products mentioned above that are identical to the state's standards. The federal standards preempt the state's standards.

The California Energy Commission is considering the adoption of efficiency standards for certain types of incandescent reflector lamps. These standards are not as stringent as the current Washington standards for the same products.

Summary: Efficiency standards for the following four products, which have been preempted by federal law, are removed from state law: illuminated exit signs, low-voltage dry-type distribution transformers, torchieres, and traffic signal modules.

The state's efficiency standards for certain incandescent reflector lamps are changed to conform with the proposed California standards.

New products, except commercial ice-makers, single-voltage external AC to DC power supplies, and halide lamps, that are manufactured on or after January 1, 2007, may not be sold if they do not meet or exceed the specified standards. The applicable manufacturing date for new ice-makers, single-voltage external AC to DC power supplies, and halide lamps is on or after January 1, 2008.

New products, except commercial ice-makers and metal halide lamp fixtures, that are manufactured on or after January 1, 2007, may not be installed for compensation on or after January 1, 2008, if they do not meet the specified standards. The applicable date for new ice-

makers and halide lamps that are manufactured on or after January 1, 2008, is January 1, 2009.

Votes on Final Passage:

Senate	48	0	
House	96	0	(House amended)
Senate	42	0	(Senate concurred)

Effective: June 7, 2006

SSB 6851
C 296 L 06

Concerning closure of mobile home parks and manufactured housing communities.

By Senate Committee on Financial Institutions, Housing & Consumer Protection (originally sponsored by Senators Prentice and Fairley).

Senate Committee on Financial Institutions, Housing & Consumer Protection
House Committee on Housing

Background: Under current law, before a mobile home park closure or conversion, at least 12 months written notice must be given to the Department of Community, Trade and Economic Development (CTED) and tenants, and be posted at all park entrances. All tenants entering a month-to-month rental agreement, signed after the park closure notice date, must also be given notice. The notice provided to CTED must include: (1) a good faith estimate of the timeline for removal of the mobile homes; and (2) the reason for the closure. This notice is required to be recorded with the county auditor.

In general, rental agreements for mobile home parks are required to contain a covenant providing that, except for acts beyond the landlord's control, the park will not be converted to a use that does not allow the continued use of the mobile home for a period of at least three years from the beginning date of the rental agreement. However, in place of such a covenant, the rental agreement may instead include a statement which provides that the park may be sold or otherwise transferred at any time, resulting in a park closure. This statement must be visually set-off from the other text (e.g. in a box or separated by a blank space).

Summary: Notice to CTED. Landlords must meet additional requirements in regards to notice of mobile home park closures or conversions. The notice sent to CTED must also include a list of the names and mailing addresses of the current registered park tenants. This notice must be sent by the landlord to CTED within 10 business days. After receiving the landlord's notice, CTED is required to send every tenant an application and information on relocation assistance within 10 business days.

Notice to Tenants. In addition to the existing statutory requirements, rental agreements for mobile home tenancies must also include the following statement verbatim: "*The park may be sold or otherwise transferred at any time with the result that subsequent owners may close the mobile home park, or that the landlord may close the park at any time after the required notice*." This statement must be in bold and located directly above the tenant's signature on the rental agreement.

Votes on Final Passage:

Senate	46	0	
House	93	3	(House amended)
Senate	48	0	(Senate concurred)

Effective: June 7, 2006

SB 6861
C 170 L 06

Requiring a study of competing interests of domestic water users.

By Senators Delvin, Poulsen, Mulliken, Morton and Honeyford.

Senate Committee on Water, Energy & Environment
House Committee on Economic Development, Agriculture & Trade

Background: A general water adjudication proceeding for surface water rights has been underway in the Yakima River watershed since the late 1970s. In this adjudication, the Superior Court for Yakima County entered an order on June 10, 2004, limiting the exercise of water rights in the Yakima River and its tributaries by those with a priority date after May 10, 1905 (post-1905). The restrictions imposed by the court suspends the use of post-1905 rights when the U.S. Bureau of Reclamation imposes rationing for the Yakima irrigation project. The restriction imposed by the court continues until the end of the irrigation season on October 31.

On March 10, 2005, the Governor declared a statewide drought emergency that authorized the Department of Ecology (DOE) to access emergency drought resources. As part of the drought response, the DOE filed a motion with the Superior Court to place 60 acre-feet of water into the State's Trust Water Program to offset post-1905 limited domestic water use. The court approved the transfer for the 2005 season.

Future curtailment of post-1905 water rights in the Yakima River watershed is likely to occur again.

Summary: The DOE must provide a report to the Legislature on the issues surrounding competing users of surface water in areas where domestic water use has been curtailed by a court order. The DOE must also suggest legislation or other solutions for resolving conflicts over limited water resources.

The study is to include information regarding residential water uses and the circumstances surrounding the competition between domestic uses and all other uses.

The study is limited to basins currently involved in a water rights adjudication and is to focus on collection of information for seasonal residential uses.

Votes on Final Passage:

Senate 47 0
House 98 0

Effective: June 7, 2006

ESSB 6870
C 53 L 06

Funding the board of pilotage commissioners' training program.

By Senate Committee on Transportation (originally sponsored by Senator Haugen).

Senate Committee on Transportation
House Committee on Transportation

Background: To protect marine environments, and prevent loss of human lives and damage to property, Washington established compulsory pilotage provisions related to vessels in certain state waters. The Board of Pilotage Commissioners (Board) administers the pilotage provisions. Among the Board's responsibilities is the establishment of a comprehensive training program to assist in the training and evaluation of pilot applicants before final licensing. In furtherance of its duties, the Board created a pilotage training program. According to the rules promulgated by the Board, trainees enrolled in the pilotage training program may receive a monthly stipend, and pilot training surcharges are collected for each vessel assignment to fund the trainee stipends.

No agency may expend funds in excess of the amount appropriated by law for a particular purpose. The Office of Financial Management (OFM) is responsible for managing the cash flow of public funds.

Summary: The authority of the Board to pay stipends to the trainees enrolled in the pilotage training program is clarified. The clarification of the Board's authority is retroactively effective to December 1, 2005. The amount of the Board's current appropriation is increased by $600,000. Of the additional appropriation, $500,000 is restricted to stipend payments to trainees participating in the pilotage training program.

Votes on Final Passage:

Senate 47 0
House 96 0

Effective: March 14, 2006

SSB 6874
C 300 L 06

Providing tax incentives for the timber and timber products industries.

By Senate Committee on Ways & Means (originally sponsored by Senators Doumit, Zarelli, Hargrove, Morton, Sheldon and Rasmussen).

Senate Committee on Ways & Means
House Committee on Finance

Background: The business & occupation (B&O) tax is levied for the privilege of doing business in Washington. The tax is levied on the gross receipts of all business activities conducted within the state. There are no deductions for the costs of doing business. Although there are 9 different rates, the most common rates are 0.471 percent for retailing, 0.484 percent for wholesaling, and 1.5 percent for service activity.

Preferential B&O tax rates have been provided by the Legislature in recent years for aerospace and semiconductor microchips as tax incentives.

The Forest and Fish report was presented to the Forest Practices Board and the Governor's Salmon Recovery Office on February 22, 1999. The report represented the recommendations of the authors for the development and implementation of rules, statutes, and programs designed to improve and protect riparian habitat on non-federal forest lands in Washington. The report was authored by various stakeholders, including the federal government, state government, tribal governments, and various interest and constituency groups. The rules proposed in the Forest and Fish report were designed to provide compliance with the Endangered Species Act, restore and maintain minimum riparian habitat to support a harvestable supply of fish, meet Clean Water Act standards, and keep the timber industry economically viable. Federal funding support for Tribal participation in the process is expected to end in federal fiscal year 2006.

Summary: The B&O tax rate is reduced for extracting or extracting for hire timber, or manufacturing or processing for hire logs, wood chips, sawdust, wood waste, pulp, recycled paper products, paper and paper products, dimensional lumber, and engineered wood products, plywood, wood doors, and wood windows. The reduced B&O rate also applies to wholesales of these products by the extractors and manufacturers. The reduced B&O tax rate is phased in: 0.4235 percent applies from July 1, 2006, to July 1, 2007, and 0.2904 percent applies from July 1, 2007, to July 1, 2024. The preferential tax rate expires July 1, 2024.

Taxpayers using the reduced tax rate are required to file an annual accountability survey and the survey and tax returns must be filed electronically. A taxpayer who fails to complete the required survey forfeits the benefits of the preferential rates and must pay interest, but not

penalties, on the additional taxes due. The survey information must be compiled and provided to the Legislature annually. The fiscal committees of the Legislature are required to study the effectiveness of the preferential tax rate and to report to the Legislature by November of 2011 and 2023.

Starting July 1, 2007, a 0.052 percent surcharge is imposed on taxpayers using the reduced tax rate. The proceeds of the surcharge placed in a dedicated account and are used for implementation of the state's forests and fish report. The surcharge is suspended when the surcharge collections reach $8 million in the biennium, or the federal budget contains at least $2 million in appropriations to support tribal participation in forest and fish related activities. If the federal appropriation is less than $2 million then the surcharge rate is reduced.

Votes on Final Passage:

Senate	40	4	
House	93	5	(House amended)
Senate	40	5	(Senate concurred)

Effective: July 1, 2006 (Sections 1, 3, 4-6, and 8-12)
July 1, 2007 (Section 2)
Contingent (Section 7)

ESSB 6885
C 13 L 06

Modifying unemployment insurance provisions.

By Senate Committee on Labor, Commerce, Research & Development (originally sponsored by Senators Kohl-Welles, McAuliffe, Thibaudeau, Keiser and Fairley).

Senate Committee on Labor, Commerce, Research & Development
House Committee on Commerce & Labor

Background: The unemployment insurance system is a federal/state program under which employers pay contributions to fund unemployment compensation for unemployed workers. These payments are made under state unemployment laws and the Federal Unemployment Tax Act (FUTA). The FUTA allows the states' employers to receive a tax credit against their federal unemployment tax. The state receives a share of the federal FUTA revenues for administration of its unemployment insurance system, but only if the state maintains an unemployment insurance system in conformity with federal law. Washington's program is administered by the Employment Security Department (ESD).

Unemployment Benefits. Before January of 2004, a claimant's weekly benefit amount (WBA) was 4 percent of the claimant's average wages in the two quarters of the base year in which wages were highest. The 2003 legislation established new methods of calculating the WBA for claims with specified effective dates: *On or after January 4, 2004, and before January 2, 2005*: The WBA was calculated using 4 percent of the claimant's average wages in the three quarters of the base year in which wages were highest; *On or after January 2, 2005*: The WBA is 1 percent of the claimant's total wages in the base year.

For claims with an effective date on or after April 24, 2005, and before July 1, 2007, the claimant's WBA is calculated using 3.85 percent of the claimant's average wages in the two quarters in the base year in which the wages were the highest. The benefits paid that exceed the benefits that would have been paid if the WBA had been calculated as 1 percent of annual wages are not charged to contribution paying employers' experience rating accounts.

The 2003 legislation also repealed a requirement for the unemployment insurance system to be "liberally construed." The 2005 legislation restored this requirement until June 30, 2007.

Unemployment Taxes. *2003 Legislation*. The 2003 legislation created a new unemployment tax system. Beginning with rate year 2005, the unemployment insurance contribution rate for most covered employers is determined by the combined array calculation factor rate and the social cost factor rate, subject to a maximum rate, and solvency surcharge, if any. These rates are determined as follows:

Array calculation factor. Employers are placed in one of 40 rate classes, with rates from 0 percent to 5.4 percent. The assigned rate class depends on the employer's layoff experience.

Social cost factor. A flat social cost rate is calculated as the difference between benefits paid and taxes paid, divided by total taxable payroll. The amount is then adjusted for the months of benefits in the trust fund above 10 months, but the rate may not be less than 0.6 percent. Employers pay a graduated social cost factor rate, ranging from 78 percent to 120 percent of the flat rate, depending on the employer's rate class.

Maximum rate for the sum of the array calculation factor and the social cost factor. For employers in fishing, agriculture, and food and seafood processing, the maximum rate is 6 percent. For employers in all other industries, the maximum rate is 6.5 percent.

Solvency surcharge. Up to an additional 0.2 percent surcharge is added to the contribution rate in the next rate year if the unemployment trust fund has fewer than 6 months of benefits on a specified annual date. Not all benefits paid are charged to the employers' experience rating accounts. By law, noncharging of benefits is required for specified reasons, and these costs are pooled within the system as social costs.

2005 Legislation. For fiscal years 2006 and 2007, the social cost factor rate is zero for employers in agricultural crops, livestock, agricultural services, food and seafood processing, fishing, and cold storage.

For tax rate year 2007, the flat social cost factor is

the lesser of the rate applicable with the new WBA calculations in effect or the rate that would have been applicable if the WBA had been calculated as 1 percent of a claimant's annual wages.

The formula is adjusted for determining the social cost factor in rate year 2007 to account for benefits that are not effectively charged because of these changes in the social cost factor.

When paying unemployment benefits, beginning in fiscal year 2006 and through calendar year 2007, funds are first requisitioned from the Reed Act funds in the amount of the benefits that are not effectively charged because the social cost factor rate is reduced to zero for certain industries and in the amount of benefits paid that exceed the benefits that would have been paid if the WBA had been calculated as 1 percent of a claimant's annual wages.

Summary: The expiration date for the weekly benefit amount calculation is removed and the use of "two quarter averaging" with a 3.85 multiplier is made permanent. The language requiring liberal construction of the unemployment compensation law is permanently retained.

Benefits are charged to employers as though the weekly benefit amount is 1 percent of wages in all four quarters of the base year.

Tax rates are capped at 5.7 percent for specified industries (agriculture, fishing, food processing, and cold storage) beginning in rate year 2008.

The social cost factor rate is set at zero from July 1, 2005 through December 31, 2007 for certain agricultural industries. (Continues the rate set in HB 2255.)

The flat social cost factor rate reduction calculation (under which the rate is reduced depending on the trust fund balance on September 1) is reduced by the following:

- a maximum reduction of 0.4 and a minimum flat rate of 0.6 percent when there are eleven months of benefits in the trust fund;
- a maximum reduction of 0.4 and a minimum flat rate of 0.5 percent when there are twelve to thirteen months of benefits in the trust fund; and
- a maximum reduction of 0.4 and minimum flat rates of 0.45 percent for rate class one and 0.50 percent for all other employers when there are fourteen or more months of benefits in the trust fund.

The changes in the calculation of the social cost factor rate and the requisitioning of funds from the unemployment trust fund that applied only to rate year 2007 are deleted. The solvency tax applies only if the trust fund balance has fewer than seven months of benefits (instead of six months).

A spouse who voluntarily quits a job to relocate because his or her spouse received a mandatory military transfer could qualify for unemployment compensation if other requirements are met. These changes apply to new claims made on or after July 2, 2006.

Certain provisions contained in Second Engrossed Senate Bill 6097 are reenacted and made retroactive.

ESD is directed to study issues pertaining to repeat episodes of unemployment, rate class 40 employers, employer turnover and fraud prevention and report to the Unemployment Insurance Advisory Committee and the appropriate legislative committees by December 1, 2006.

Votes on Final Passage:

Senate	25	22	
House	97	1	(House amended)
Senate	44	2	(Senate concurred)

Effective: June 7, 2006

ESSB 6896
C 56 L 06

Funding state budgetary reserves including an adjustment to the state expenditure limit.

By Senate Committee on Ways & Means (originally sponsored by Senators Prentice, Doumit, Brown, Regala, Rockefeller and Kohl-Welles).

Senate Committee on Ways & Means

Background: The state of Washington, through its Department of Retirement Systems, operates several retirement plans for public employees, including employees of the state, local governments, and school districts. Actuarial valuations of current pension fund assets and liabilities have determined that the current assets and projected future employer and employee contributions and investment earnings of several state-funded retirement systems will not be sufficient to meet the future retirement obligations of these systems. Over the next several fiscal biennia, these unfunded liabilities will require significant increases in the state's contributions to the retirement systems.

The Health Services Account was established by the Legislature in 1993 for the purpose of supporting the public health system and funding health services to low-income persons through such programs as the Basic Health Plan. The revenues to the account consist primarily of cigarette taxes, a portion of the state's share of the national tobacco litigation settlement, and other taxes. When these revenues have been insufficient to cover expected costs to the Health Services Account, the Legislature has made deposits from the state General Fund.

The Student Achievement Fund was created by the voters in 2000 by Initiative No. 728 for the purpose of funding enhancements in the K-12 school system, including reduced class sizes, professional development for educators, and early learning opportunities. The revenues to the account consist of a portion of various state taxes, including property taxes, cigarette taxes, and estate taxes.

Initiative 601, enacted in 1993, established a state

General Fund expenditure limit and restrictions on state fee and revenue increases. Under the initiative, the annual growth in state General Fund expenditures is limited to the "fiscal growth factor" (the average rate of state population increase and inflation during the prior three fiscal years). The State Expenditure Limit Committee calculates the expenditure limit each November and projects an expenditure limit for the next two fiscal years. (Beginning in 2007, the fiscal growth factor will be based on the 10-year average growth in state personal income, and five additional funds, including the Health Services Account, will be included within the expenditure limit.) The state expenditure limit is adjusted downward to reflect the extent to which actual General Fund expenditures in prior years are less than the maximum amount allowed under the expenditure limit. Other downward adjustments to the spending limit are required when state program costs or monies are shifted out of the General Fund to other dedicated accounts. Upward adjustments to the spending limit occur if state program costs or monies are transferred to the state General Fund from other accounts.

Initiative 601 also requires a two-third vote of each house of the Legislature to increase state revenues, such as a tax increase. The 2005 Legislature suspended this requirement until June 30, 2007.

Summary: The Legislature intends to provide for the fiscal stability of the Health Services Account, the Student Achievement Fund, and the state's retirement systems by making appropriations for these purposes.

The Pension Funding Stabilization Account is established for the purpose of making employer contributions to specified state-funded retirement systems, subject to legislative appropriation. Monies in the account will be invested by the State Investment Board, with the investment earnings retained in the account. New supplemental employer contribution rates are established for the purpose of reducing the unfunded actuarial liabilities of plan 1 of the Public Employees' Retirement System and the Teachers' Retirement System. For Fiscal Year 2006, three hundred fifty million dollars is appropriated for this purpose.

For Fiscal Year 2006, two hundred million dollars is appropriated from the state General Fund to the Health Services Account to provide fiscal stability for the account.

For Fiscal Year 2006, two hundred seventy-five million dollars is appropriated from the state General Fund to the Student Achievement Fund to provide fiscal stability for the fund.

The state expenditure limit for Fiscal Year 2006 is declared to be the expenditure limit as adopted at the November 2005 meeting of the Expenditure Limit Committee and adjusted upward to include the appropriations to the Pension Funding Stabilization Account, the Health Services Account, and the Student Achievement Fund. Expenditures from the Pension Funding Stabilization Account are not considered to be a program cost shift under Initiative 601.

The authority of the Legislature to increase state revenues without a two-thirds vote is terminated on June 30, 2006.

Votes on Final Passage:

Senate	25	22
House	51	47

Effective: March 15, 2006
July 1, 2006 (Section 10)

ESJM 8019

Requesting the United States trade representative to create a federal-state international trade policy commission.

By Senators Shin, Rasmussen, Rockefeller, Weinstein, Kastama, Kohl-Welles, Pridemore, Berkey, Doumit, McAuliffe, Franklin, Keiser, Regala, Fairley, Prentice, Jacobsen, Fraser and Haugen.

Senate Committee on International Trade & Economic Development
House Committee on Economic Development, Agriculture & Trade

Background: The Office of the United States Trade Representative (USTR) is responsible for developing and coordinating U.S. international trade policy and overseeing negotiations with other countries. The Intergovernmental Policy Advisory Committee (IGPAC), comprised of state and local government representatives, periodically advises the USTR on trade agreements from the perspective of state and local governments.

The IGPAC recently recommended that the USTR create a Federal-State International Trade Policy Commission, with membership to be drawn from federal and state trade policy officials.

Summary: The USTR is requested to create a Federal-State International Trade Policy Commission. The Commission is to serve as a resource for objective trade policy analysis and foster communication among federal and state trade policy officials.

Votes on Final Passage:

Senate	47	0
House	97	0

SCR 8423

Creating a homeowners' association act committee.

By Senator Fairley.

Senate Committee on Financial Institutions, Housing & Consumer Protection

Background: Homeowners' associations are a rapidly growing form of housing in Washington State. As such, it is believed that there is a growing need to have state laws to provide guidance and clarification in regards to the operations of homeowners' associations.

Currently, homeowners' associations are primarily controlled by their own governing documents, which include, among other documents, an association's articles of incorporation, by-laws, and covenants, conditions, and restrictions. However, the Homeowners' Association Act and any applicable business entity statutes also apply to homeowners' associations.

It is believed that current law governing homeowners' associations needs to be reviewed to more adequately address the concerns of both homeowners' association boards and non-board members.

Summary: The Homeowners' Association Act committee is created for the purpose of reviewing existing statutes and current issues affecting homeowners' associations. In particular, the committee will review the process for amending association governing documents, alternative dispute resolution mechanisms, the budget ratification process, potential conflicts between existing statutes, and the process in which liens are placed on property for unpaid dues, among other concerns.

A report on the committee's recommendations must be developed and submitted to the Legislature by September 1, 2007

The committee will consist of ten members: one member from each of the Senate and House, two members who are homeowners' association members that are not serving on the board of a homeowners' association, homeowner association representatives, a residential development industry representative, and attorneys experienced in representing the interests of both homeowners' associations and homeowners. Only legislative members will be reimbursed for travel expenses.

Votes on Final Passage:

Senate 47 2

SUNSET LEGISLATION

Background: The Legislature adopted the Washington State Sunset Act (43.131 RCW) in 1977 in order to improve legislative oversight of state agencies and programs. The sunset process provides for the automatic termination of selected state agencies, programs, units, subunits, and statutes. Unless the Legislature provides otherwise, the entity made subject to sunset review must formulate the performance measures by which it will ultimately be evaluated. One year prior to an automatic termination, the Joint Legislative Audit and Review Committee and the Office of Financial Management conduct program and fiscal reviews. These reviews are designed to assist the Legislature in determining whether agencies and programs should be terminated automatically or reauthorized in either their current or a modified form prior to the termination date.

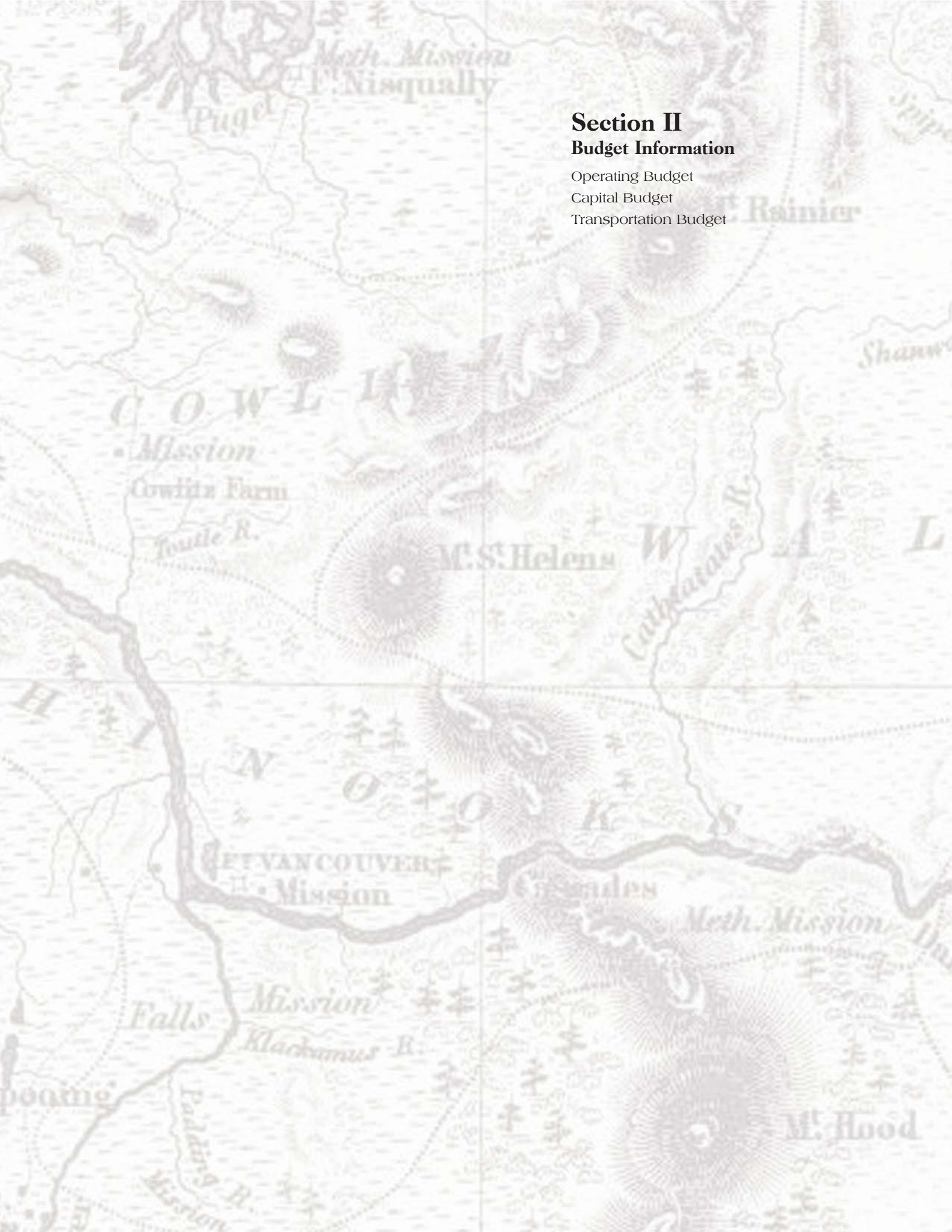
Session Summary: Legislation establishes a new program, the Veterans Innovations Program (VIP), to provide assistance to veterans who have returned from recent military action. This program is subject to sunset review in 2016 with the legislation expiring in 2017.

Programs Added to Sunset Review

Veterans Innovations Program
2SHB 2754 (C 343 L 06)

Section II
Budget Information

Operating Budget
Capital Budget
Transportation Budget



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2006 Supplemental Budget Overview
Operating, Transportation, and Capital Budgets

Washington State biennial budgets authorized by the Legislature in the 2006 session total $62.9 billion. The omnibus operating budget accounts for $51.3 billion. The transportation budget and the omnibus capital budget account for $6 billion and $5.6 billion, respectively.

Separate overviews are included for each of the budgets. The overview for the omnibus operating budget can be found below, the overview for the omnibus capital budget is on page 304, and the overview for the transportation budget is on page 306.

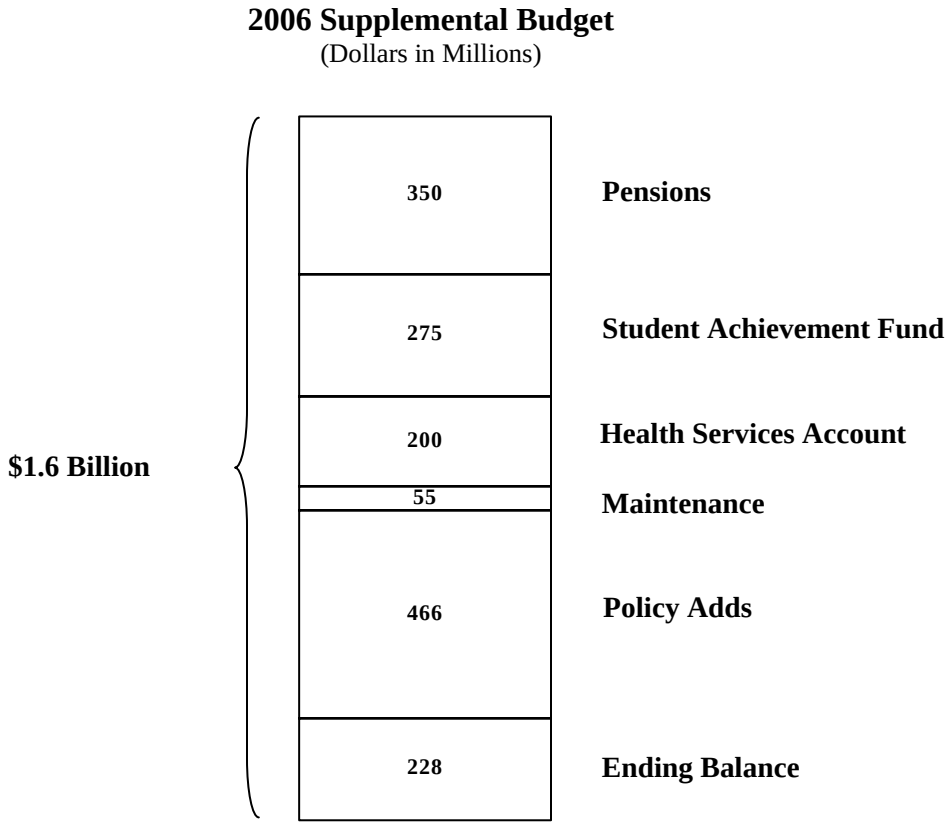
2006 Supplemental Omnibus Budget Overview
Operating Only

At the conclusion of the 2005 legislative session, the general fund ending balance was projected to be $178 million. From the March 2005 revenue forecast (used to develop the 2005-07 biennium budget) to the February 2006 forecast (used to develop the 2006 Supplemental budget), revenues grew by $1.4 billion resulting in an ending balance of $1.6 billion. Although most sectors of the economy were up, continued strength in the real estate and construction industries, as well as aerospace, helped fuel the revenue increases. The real estate excise tax forecast was up $452 million and the Revenue Act forecast was up $736 million during this period. This allowed the 2006 Legislature to both address funding requests and increase budget reserves.

The 2006 Legislature used two bills to create their budget: 1) Chapter 372, Laws of 2006, Partial Veto (ESSB 6386 – 2006 Omnibus Operating Supplemental Budget), which increased spending by $520.5 million; and 2) Chapter 56, Laws of 2006 (ESSB 6896 – Funding State Budget Reserves), which amended the expenditure limit for the appropriations in the bill and appropriated $825 million from the general fund into the following three accounts:

- $350 million into a new Pension Funding Stabilization Account;
- $275 million into the Student Achievement Account; and
- $200 million into the Health Services Account.

In turn, a portion of the amounts appropriated into the Pension Funding Stabilization Account and the Health Services Account was spent in the 2005-07 biennium. Overall, total appropriations from the general fund increased by $1.35 billion.



Other changes to the general fund balance sheet include:

- Chapter 278, Laws of 2006 (SHB 2880), which clarified the continued tax obligation of insurance companies and retained $52 million revenue to the general fund;
- several other tax bills, which reduced taxes by a net of $50 million; and
- reductions in the transfers from other revenue accounts to the general fund.

These revenue changes were a net loss to the general fund of $8 million.

The 2006 Supplemental Operating Budget left $947 million in resources available for future budgets:

Dollars in Millions	
General Fund Balance	228
Student Achievement Account	275
Health Services Account	143
Pension Funding Stabilization Account	301
Total	**947**

Revenues

In the 2006 session, the Legislature enacted several bills intended to help the agriculture industry. One of the main concerns was the effect of record high fuel prices on the industry. Legislation was passed to exempt diesel fuel and aircraft fuel used for farm purposes from the retail sales and use tax to help offset the cost of fuel. In addition, a sales and use tax exemption was provided for replacement parts for farm equipment. Tax incentives were also adopted for the seafood and dairy industries.

Tax incentives were also given to the timber and wood products industry, motion picture industry, aluminum industry, and biotech product and medical device manufacturing industries to either help them rebound or to grow. In addition, the current aerospace tax incentives were extended to non-manufacturing aerospace business.

Assistance was given to all businesses in Chapter 256, Laws of 2006 (HB 2671), which reversed legislation adopted in 2003. The excise tax return due date for monthly filers was extended from the 20th of the month following a taxable activity to the 25th of the month. The 5 percent assessment penalty on all tax deficiencies that was adopted in 2003 was reduced to only apply to businesses that "substantially underpay" their tax obligations, meaning they pay less than 80 percent of the amount due and the deficiency is greater than $1,000.

Finally, Chapter 278, Laws of 2006 (SHB 2880), closed an unintended loophole in the tax code. The statute imposing the insurance premiums tax states that the tax is in lieu of all other taxes, except taxes on real and tangible personal property; excise taxes on the sale, purchase, or use of such property; and business and occupation (B&O) tax imposed on nonprofit hospitals. The question arose as to whether the phrase "excise taxes on the sale, purchase, or use of such property" means insurers are liable for retail sales taxes only on the sale of tangible personal property and not on the sale of sales taxable services or extended warranties. This bill clarified that insurers do pay the retail sales and use taxes on taxable services as other types of businesses do.

Revenue Legislation

The legislation listed below is intended to be a summary of bills passed during the 2006 session affecting state revenues or tax statutes but may not cover all revenue-related bills.

Revenue Reduction Measures

Modifying Due Dates and Eliminating an Assessment Penalty – $11.4 Million General Fund-State
Chapter 256, Laws of 2006 (HB 2671), moves the due date for taxpayers filing monthly excise tax returns to the 25th of the month rather than the 20th. In addition, the current 5 percent assessment penalty is only assessed on businesses if they "substantially underpay" taxes due, which is defined as less than 80 percent of the tax due and is greater than $1,000.

Replacement Parts for Farm Machinery and Equipment – $5.8 Million General Fund-State
Chapter 172, Laws of 2006 (SHB 2457), exempts replacement parts for farm machinery and equipment from the sales and use tax for qualifying farmers. This includes replacement parts that are installed by the farmer and those parts installed by others if the parts are separately itemized on the bill. To qualify, the farm must have a gross income from sale of agricultural products that exceeded $10,000 in the prior year or in the first full year of farming. Paint, fuel, oil, grease, hydraulic fluids, antifreeze, and similar items are excluded from the definition of replacement parts and do not qualify for this exemption.

Timber and Timber Products Tax Incentives – $4.6 Million General Fund-State
Chapter 300, Laws of 2006 (SSB 6874), provides a preferential B&O tax rate of 0.2904 percent for cutting timber, manufacturing timber and timber products into wood products, and sales of the timber and wood products

at wholesale. Wood products include pulp, paper, lumber, and engineered wood products, such as particle board. The preferential rate expires July 1, 2024.

Farm Fuel Sales Tax Exemption – $4.5 Million General Fund-State Decrease
Chapter 7, Laws of 2006 (HB 2424), provides a sales and use tax exemption for diesel and aircraft fuel used by a farmer for farming purposes or a person performing horticultural services for a farmer.

Motion Picture Industry – $3.5 Million General Fund-State
Chapter 247, Laws of 2006 (2SSB 6558), creates the Motion Picture Competitiveness Program (MPCP), a non-profit entity administered by a board of directors appointed by the Governor. MPCP is authorized to provide up to 20 percent of the in-state cost of, or investment in, certain film production projects. A contributor of cash of up to $1 million to MPCP qualifies, dollar for dollar, for a B&O tax credit until 2008. After 2008, the amount of the credit is reduced to 90 percent of the amount contributed. The total of all tax credits claimed in any calendar year may not exceed $3.5 million.

Public Utility Tax Credit for Heating Assistance for Low-Income Households – $3.0 Million General Fund-State
Chapter 213, Laws of 2006 (HB 2644), raises the total public utility tax credit for electric and natural gas utilities providing heating assistance to low-income customers from $2.5 million to $5.5 million for fiscal year 2007.

Aerospace Tax Incentives – $2.9 Million General Fund-State
Chapter 177, Laws of 2006 (HB 2466), extends the sales and use tax exemption for computer equipment and software used primarily in commercial airplane development and the B&O tax credit for pre-production development expenditures related to commercial aircraft to non-manufacturing firms. The B&O tax credit for property taxes paid on property used in the manufacture of commercial airplanes is expanded to include leasehold excise taxes. The reduced B&O tax rate for Federal Aviation Administration certificated repair stations engaged in the repair of equipment used in interstate or foreign commerce is extended to July 1, 2011. The tax rate is set at 0.2904 percent.

Food Product Manufacturing – $2.8 Million General Fund-State
Chapter 354, Laws of 2006, Partial Veto (EHB 3159), extends the B&O tax exemption, sales and use tax deferral on manufacturing facilities, and warehouse tax remittance adopted for fruit and vegetable products in 2005 to seafood and dairy product manufacturing. The tax exemptions for fruit and vegetable, seafood and dairy product manufacturing, and warehousing terminates July 1, 2012. The B&O tax rate on persons that inspect, test, and label canned salmon owned by another person is reduced from 1.5 percent to 0.484 percent. Vetoed were sales and use tax exemptions provided for materials used in the labeling or packaging of canned salmon.

Syrup Taxes – $2.3 Million General Fund-State
Chapter 245, Laws of 2006 (SSB 6533), allows a retailer to claim a credit against B&O taxes for 50 percent of carbonated beverage syrup taxes paid as follows: 25 percent for fiscal year 2007; 50 percent for fiscal year 2008; 75 percent for fiscal year 2009; and 100 percent for years after fiscal year 2009.

Professional Employer Organizations – $2.1 Million General Fund-State
Chapter 301, Laws of 2006 (SSB 6671), defines a professional employer organization as a firm providing employee-related services to clients where the client's employer rights, duties, and obligations have been allocated between the client and the professional employer organization. Professional employer organizations pay B&O tax at the 1.5 percent service rate. A deduction is provided from gross income for amounts representing the actual cost of wages and salaries, benefits, workers compensation, payroll taxes, withholding, and other assessments paid on behalf of the client.

Biotechnology Products and Medical Device Manufacturing Incentives – $1.4 Million General Fund-State Decrease
Chapter 178, Laws of 2006 (SHB 2640), provides a state and local sales and use tax deferral for investments in construction or renovation of structures, or machinery and equipment, used for biotechnology product or medical device manufacturing. If, after eight years, the deferral recipient meets eligibility criteria, repayment of the sales and use tax is not required.

Aluminum Smelters – $1.1 Million General Fund-State Decrease
Chapter 182, Laws of 2006 (HB 2348), extends the tax preferences for the aluminum smelting industry through 2012, which were originally set to expire after 2006. The preferences continued include: 1) a reduction in the B&O tax rates under manufacturing and wholesaling to 0.2904 percent; 2) a credit against B&O tax liability for property taxes paid; 3) a credit against retail sales and use tax liability for the amount of the state portion of sales and use taxes paid on property, labor, and services associated with the property; and 4) an exemption from the brokered natural gas use tax.

Vegetable Seed Conditioning – $1.1 Million General Fund-State Decrease
Chapter 142, Laws of 2006 (SHB 1523), extends the rural county sales and use tax deferral/exemption program applying to investments by certain businesses in plant construction, expansion, or equipment acquisition to include businesses conditioning vegetable seeds.

Customized Work Force Training – $0.9 Million General Fund-State
Chapter 112, Laws of 2006 (2SSB 6326), creates the Washington Customized Employment Program to provide training assistance to employers locating to or expanding in the state. The State Board for Community and Technical Colleges must provide training allowances to employers. Employers must pay for one quarter of the cost of training up front. The remaining three quarters of the cost is repaid over an 18-month period. Employers are given a B&O tax credit equal to half of the amount paid for training their employees through this program.

Public Transit Services – $0.5 Million General Fund-State
Chapter 336, Laws of 2006 (SB 6826), provides a public utility tax deduction for fare-box revenues collected by county and city transit agencies, urban public transit systems, and public transportation benefit district transit agencies. Transit agencies must use an amount equal to the tax saving for increased service to low-income and senior citizens.

Sales and Use Tax Credit for Regional Centers – $0.4 Million General Fund-State
Chapter 298, Laws of 2006 (ESSB 6230), extends the 0.033 percent sales and use tax for a regional center for public facilities districts that is credited against the state sales and use tax to districts created before July 1, 2006, in a county or counties in which there are no other public facilities districts on the effective date of the bill and in which the total population in the public facilities district is greater than 90,000 that commences construction of a new regional center before February 1, 2007.

State Park Fees – $0.3 Million General Fund-State
Chapter 141, Laws of 2006 (SHB 2416), prohibits the Washington State Parks and Recreation Commission from imposing a fee for parking or general access to state parks.

Nonprofit Convention and Tourism Promotion Organizations – $0.2 Million General Fund-State
Chapter 310, Laws of 2006 (SHB 2778), exempts from B&O taxes income of a nonprofit organization from state and local governments, federally-recognized Indian tribes, or public corporations for promoting conventions and tourism.

State-Chartered Credit Unions – $0.2 Million General Fund-State
Chapter 11, Laws of 2006 (HB 2364), provides a use tax exemption to state-chartered credit unions for personal property, services, and extended warranties that are acquired from a federal, out-of-state, or foreign credit union as a result of a conversion or merger.

Tax Exemptions for the Handling and Processing of Livestock Manure – $0.04 Million General Fund-State
Chapter 151, Laws of 2006 (ESHB 3222), expands the current exemption from sales tax for dairy cattle operations to all confined livestock feeding operations with nutrient management plans approved by conservation districts. The sales tax exemption applies to livestock nutrient management equipment and facilities purchased to implement the approved nutrient management plan. The current exemption from sales tax for the construction and repair of anaerobic digesters for treating dairy manure is expanded to anaerobic digesters that treat other kinds of livestock manure.

Enhancing Air Quality at Truck Stops – $0.04 Million General Fund-State
Chapter 323, Laws of 2006 (SSB 6512), provides B&O and sales and use tax incentives for equipment designed to convey power to idling heavy duty vehicles through on-board or stand-alone electrification systems. Incentives are available to both businesses providing electrification services and to vehicle owners installing on-board equipment. The incentives expire on July 1, 2015.

Tobacco Product Sampling – $0.02 Million General Fund-State Decrease
Chapter 14, Laws of 2006 (ESB 5048), prohibits the distribution of tobacco product samples to members of the public.

Property Tax Deferral Interest Rates – $0.02 Million General Fund-State
Chapter 275, Laws of 2006 (SHB 2569), reduces the interest rate charged on property taxes deferred under the senior citizen property tax deferral program from 8 percent to 5 percent for future deferrals. The Department of Revenue (DOR) must study and report on the adequacy and appropriateness of the interest rate in 2012.

Solar Hot Water Heating Equipment – $0.01 Million General Fund-State Decrease
Chapter 218, Laws of 2006 (2SHB 2799), provides a sales and use tax exemption for solar water heating systems, water heating collectors, heat exchangers, and differential controllers. The exemption also applies to repairs, replacement parts, and related labor and services. The exemption expires on July 1, 2009.

No General Fund-State Impact for 2005-07

Performance Audits of Tax Preferences
Chapter 197, Laws of 2006 (EHB 1069), creates a citizen commission to develop a schedule for periodic review of tax preferences such as exemptions, exclusions, deductions, credits, deferrals, and preferential rates. The commission must develop a schedule for the Joint Legislative Audit and Review Committee (JLARC) to conduct a review of all tax preferences at least once every ten years. Annual reports are to be made to the Legislature on reviewed tax preferences.

Property Taxation of Nonprofit Entities
Chapter 305, Laws of 2006 (SHB 1510), expands the exceptions to the prohibition on the use of property tax exempt property of nonprofit organizations. The days a nonprofit public assembly hall or meeting place or a war veterans' organization may loan or rent its property tax exempt property for gain or to promote business activities is increased from 7 to 15 days per year. Counties in which a public assembly hall or meeting place property tax exempt property may be used for dance or music lessons and art classes is increased from 10,000 to 20,000 in population. Nonprofit social service organizations in counties with less than 20,000 population may loan or rent their property tax exempt property for gain or to promote business activities for 15 days per year if there is no

private for-profit facility that could be used within 10 miles and may loan or rent their property to a nonprofit community group for 15 days per year if the community derives a benefit.

Safe Patient Handling
Chapter 165, Laws of 2006 (ESHB 1672), requires hospitals to establish a safe patient handling program. In addition, a B&O tax credit is established for hospitals licensed by the Department of Health. The credit is equal to 100 percent of the cost of acquiring mechanical lifting devices consistent with a safe patient handling program. The maximum credit for each hospital is $1,000 for each acute care available inpatient bed. The maximum credit that can be taken statewide is $10 million. The credit expires after 2010.

Municipal Business and Occupation Taxation of Printing and Publishing
Chapter 272, Laws of 2006 (SHB 2033), exempts printing and publishing businesses from the methodology adopted in 2003 for apportioning business income for purposes of municipal B&O taxes that is to take effect in 2008. The gross income of printing and publishing businesses will, instead, be allocated to the principal place in the state from which they are directed or managed.

Hospital Benefit Zone Financing
Chapter 111, Laws of 2006 (SHB 2670), allows local governments to finance public improvements within a defined area using revenue from a local sales and use tax up to 6.5 percent credited against the state sales and use tax. The defined area must include a hospital that has received a Certificate of Need. The tax must be used for bonds and must be suspended each fiscal year when the amount collected equals the amount of local matching funds, the increase in state sales taxes in the area, or $2 million. The credit is capped statewide at $2 million per year. There is a $4 million General Fund-State impact in the 2009-11 biennium.

Local Infrastructure Financing Tool Program
Chapter 181, Laws of 2006, Partial Veto (E2SHB 2673,) allows a local government to make public improvements in a specially designated revenue development area (RDA) using revenue from a local sales and use tax up to 6.5 percent credited against the state sales and use tax. The tax must be used for bonds and must be suspended each fiscal year when the amount collected equals the amount of local matching funds, the increase in state sales and property taxes in the area, or $1 million. The credit is capped statewide at $5 million per year. The program is administered by the Community Economic Revitalization Board (CERB) and board approval is required. Project criteria is established but does not apply to three demonstration projects, which must be approved prior to other projects. The demonstration projects are the Bellingham redevelopment project, the Spokane River district project, and the Vancouver Riverwest project. Local governments sponsoring an RDA must report annually to CERB, and CERB must make an annual report to the public and the Legislature. JLARC is to evaluate and report on the program every five years, starting in 2013, and CERB and DOR are to evaluate and report on the program periodically. Vetoed were provisions requiring the Office of Financial Management to conduct a study of governance and selection criteria for the program. There is a $5 million General Fund-State impact in the
2007-09 biennium.

Nonprofit Schools and Colleges
Chapter 226, Laws of 2006 (SHB 2804), allows the property of nonprofit schools and colleges to be used for non-tax exempt purposes and by persons who do not qualify for a property tax exemption without losing their property tax exemption. The property may be used by students, alumni, faculty, staff, or other persons consistent with the educational, social, or athletic programs of the school or college. The school or college may contract for school-related programs or services, such as food services for students. The school or college may allow uses for gain or to promote business for seven days a year for each portion of the property. Sports or educational camp or program uses conducted by faculty members do not count against the seven days.

Modifying the Electronic Administration of the Real Estate Excise Tax
Chapter 312, Laws of 2006 (HB 2879), makes changes to the real estate excise tax transaction fee structure to ensure only one $5 fee applies to a single transaction for real estate excise tax electronic technology. The bill makes sure that counties do not receive double reimbursement for technology expenses from the real estate excise tax technology account and from the grant program administered by DOR. County treasurers are required to pay state real estate excise tax revenue to the State Treasurer by noon on the last working day of each month instead of 5:00 p.m.

Personal Property Tax Exemption for a Head of Family
Chapter 281, Laws of 2006 (SHB 3164), increases the statutory personal property tax exemption for a head of family from $3,000 to $15,000 for taxes payable in 2007 and thereafter.

House Joint Resolution 4223 increases the maximum personal property tax exemption allowed under the State Constitution for a head of family from $3,000 to $15,000.

Semiconductor Materials Tax Incentives
Chapter 84, Laws of 2006 (SHB 3190), provides a preferential B&O tax rate of 0.275 percent for manufacturing semiconductor materials and a sales and use tax exemption for gases and chemicals used in manufacturing semiconductor materials for a 12-year period, contingent on at least a $350 million investment in an advanced semiconductor materials fabrication facility. There is a $1.8 million General Fund-State decrease in the 2007-09 biennium.

Providing Additional Funding to the Prevailing Wage Program
Chapter 230, Laws of 2006 (SSB 5236), eliminates the requirement that 30 percent of the filing fees paid by entities subject to the prevailing wage statutes must be transferred each quarter from the Public Works Administration account to the general fund. The bill goes into effect July 1, 2007.

Removing the Irrevocable Dedication Requirement for Exemption from Property Tax for Nonprofit Entities
Chapter 319, Laws of 2006 (SB 6280), removes the irrevocable dedication requirement for property tax exemption for nonprofit organizations.

Senior Citizen Property Tax Exemption Program
Chapter 62, Laws of 2006 (SB 6338), increases the land eligible for the senior citizen property tax exemption program from one acre to five acres if zoning requires this larger parcel size.

Nursing Home Bed Tax Repeal
Chapter 241, Laws of 2006 (SB 6368), repeals the nursing home bed tax effective July 1, 2007. Under previous law, the tax would continue until July 1, 2011. Early repeal of the tax will reduce state general fund revenues by $21 million in 2007-09 and by $11 million in 2009-11, after accounting for the portion of the tax for which facilities will no longer need to be reimbursed in their Medicaid payment rate.

City Annexation Sales Tax Credit
Chapter 361, Laws of 2006 (SSB 6686), provides a credit against the state portion of the sales tax for cities that annex an area in which the projected costs are greater than the projected revenues. The credit applies to cities with a population less than 400,000 and which are located in a county with a population greater than 600,000. The rate of the tax credit is 0.1 percent for each annexation area with a population over 10,000 and 0.2 percent for an annexation area over 20,000. The maximum rate of credit a city can impose is 0.2 percent. Eligibility for the credit begins July 1, 2007.

Legislative

Appropriations for legislative agencies did not authorize any ongoing program enhancements.

Judicial

Office of the Administrator for the Courts
A total of $0.6 million in funding is provided for a pilot project, and accompanying research study, to assess the impact of juror pay on juror response rates and the demographic composition of the jury pool.

Office of Public Defense
An additional $4.5 million is provided for indigent parent representation in dependency and termination cases. Last year, the program received funding to provide assistance to 30 percent of counties in Washington.

A total of $3 million is provided to improve criminal indigent defense services at the trial level. Additionally, $0.4 million is provided for public defender training through the Washington Defender Association.

Office of Civil Legal Aid
A total of $0.6 million in ongoing funding is provided to mitigate the loss of federal dollars targeted to meet emergency civil legal needs of low-income victims of domestic violence.

Governmental Operations

Office of the Governor
A total of $4 million from the Economic Development Strategic Reserve Account is provided to the Governor, upon recommendation of the Director of the Department of Community, Trade, and Economic Development and the Economic Development Commission, to recruit businesses, support public infrastructure, and provide technical assistance to prevent business closure or relocation outside the state. The funding is provided to implement Chapter 427, Laws of 2005 (2SSB 5370).

Secretary of State
A total of $6 million is provided under the federal Help America Vote Act to complete the statewide voter registration database.

Department of Community, Trade, and Economic Development
Federal Backfill
Funding is provided to mitigate a decrease or loss of federal funding, as follows:

- $2.5 million to allow tribes to participate in forest and fish management practices as they relate to the Forests and Fish Report compiled by the federal government and the state.
- $1.6 million for multi-jurisdictional drug task forces.
- $1.0 million to Community Action Agencies to address the causes and effects of poverty.
- $0.5 million for domestic violence legal advocacy.
- $0.2 million to assist the Benton-Franklin Juvenile Drug Court in continuing its programming. The counties will provide an equivalent match to the state general fund appropriation.
- $0.4 million to the Weed and Seed Program to mitigate a one-year funding lapse by the Department of Justice. The program assists communities in addressing violent crime, gang activity, and drug trafficking.
- $0.2 million to assist the Safe and Drug-Free Schools and Communities Program.
- $160,000 to the Drinking Water State Revolving Fund program to cover administrative costs.

Revenue Increase Measures

Direct Wine Shipments – $2.8 Million General Fund-State
Chapter 49, Laws of 2006 (ESB 6537), allows properly licensed wineries to ship wine to Washington residents over the age of 21. The winery must obtain a wine shipper's permit or be licensed as a domestic winery. Wine shippers permit holders must pay the wine liter tax and collect and remit to DOR all applicable state and local taxes on all sales of wine delivered to buyers in this state.

Wind Turbine Facilities – $0.3 Million General Fund-State
Chapter 184, Laws of 2006 (SSB 6141), adds property taxes resulting from new county-assessed wind turbine facilities to the amount that may be levied under the 1 percent limit on increases in property taxes.

Distribution of Beer and Wine – $0.02 Million General Fund-State
Chapter 302, Laws of 2006 (2SSB 6823), permits in-state and out-of state wineries and breweries to act as the distributor of its production. They may distribute their product directly to a retailer or may use a distributor. The bill is in response to the court case *Costco Wholesale Corp. v. Roger Hoen, et al.*

Miscellaneous

Insurance Premiums Taxpayers – $51.6 Million General Fund-State
Chapter 278, Laws of 2006 (SHB 2880), states that the insurance premiums tax is intended to be in lieu of any other tax imposed on the privilege of conducting an insurance business but not in lieu of property taxes or retail sales taxes. The bill expressly adds to the statutory list of taxes that apply to insurers' state and local excise taxes on the sale of services and extended warranties. This provision applies both prospectively and retroactively and is not a change from current practice.

Community Assistance and Support
A total of $2 million in funding is provided for sexual assault victim advocates' programs, to include services such as a 24-hour hotline, crisis intervention advocates, legal, medical, and general advocacy.

Economic Development
- A total of $7 million is provided to minor league baseball stadiums for restoration and repair of the following facilities: the Tacoma Rainiers ($2.5 million); the Spokane Indians ($2 million); the Tri-Cities Dust Devils ($1 million); the Yakima Bears ($0.8 million); and the Everett AquaSox ($0.8 million).
- A total of $1.6 million in funding is provided for lease costs associated with the Employment Resource Center required by the Master Site Agreement negotiated in 2003 between Boeing and other public entities as part of the statewide aerospace industry strategy.

Cultural/Recreational Activities
The following funding is provided to increase cultural opportunities and boost tourism in Washington State:
- Dead Sea Scrolls – $250,000 to assist with the exhibition at the Pacific Science Center in September 2006.
- United States Figure Skating Championships – $100,000 for marketing to bring the 2007 event to Spokane, with additional funding to be provided if Spokane is chosen as the designated host.
- Korean Cultural Festival – $25,000 for the second annual Northwest Korean Sports and Cultural Festival to be held in Federal Way.
- International Music Festival – $5,000 to assist with the festival in Tacoma.
- 2010 Olympic Games – $300,000 to coordinate efforts geared towards the 2010 Olympics with the regional effort being conducted by the Pacific Northwest Economic Region, a statutory committee.
- $1.5 million is provided for the Department to enter into funding agreements with the Mountains to Sound Greenway Trust to improve recreation facilities and access to hiking trails.
- $0.5 million is provided for an upgrade to the Daybreak Star Cultural Center's electrical system in Seattle's Discovery Park.
- $250,000 is provided to the City of Poulsbo for the reopening of the Poulsbo Marine Science Center as an educational facility on the Puget Sound marine environment.

Department of Personnel
A total of $7.4 million is provided to cover the costs associated with delays in the development of the new Human Resource Management System (HRMS). The HRMS project was delayed by four months as staff resources were diverted to make modifications to the existing PAY1 payroll system. The budget also provides an additional
$6.4 million to cover HRMS development cost increases resulting from the signing by the Department and its vendors of a new contract with project scope and schedule revisions.

Department of Information Services
A total of $1.5 million is provided to support the operations of the Digital Learning Commons (DLC). By September 1, 2006, DLC must develop a plan to become a self-supporting organization by September 1, 2008.

Office of the Insurance Commissioner
A total of $0.7 million in new funding is provided to establish an Anti-fraud Unit within the Office of the Insurance Commissioner to combat the increasing incidence of organized insurance fraud.

Military Department
A total of $46 million in federal funding is allocated for homeland security purposes to be distributed to local jurisdictions and state agencies for exercises, equipment, training, and response.

A total of $2 million in funding is provided to enhance emergency management in Washington State of which $1.6 million is provided for competitive grants to regional agencies, local governments, tribal governments, regional incident management teams, and private organizations. The grants must be distributed on a competitive basis and awarded for one or more of the following purposes: development and coordination of emergency management plans; training of elected and appointed officials on disaster response; administration of joint emergency management exercises; and implementation of projects to strengthen emergency response, mitigation, preparation, and coordination. The remaining $0.4 million is provided to the Department to administer the competitive grant and for implementation of activities to strengthen emergency response. Additionally, the Military Department will study the feasibility of having disaster medical assistance teams and urban search and rescue teams available within the state to be deployed by the Governor and will report the findings and recommendations to the Legislature by December 1, 2006.

A total of $2.5 million is provided for the Emergency Management Division to contract with the Washington Information Network 2-1-1 in fiscal year 2007 for operation of a 2-1-1 statewide system. The 2-1-1 system is designed to be a centralized contact point residents can use for referral to a variety of local and state health and social services.

A total of $1 million in funding is provided for the purchase and installation of at least twenty "All Hazard Alert Broadcast" radios along Washington's coast.

Human Services

The Human Services section is separated into two sections: the Department of Social and Health Services (DSHS) and Other Human Services. The DSHS budget is displayed by program division in order to better describe the costs of particular services provided by the Department. The Other Human Services section displays budgets at the departmental level and includes the Department of Corrections, the Department of Labor and Industries, the Employment Security Department, the Health Care Authority, the Department of Health, and other human services related agencies.

Department of Social & Health Services

Children and Family Services

Total funding for children and family services increased by $42 million (4.4 percent) over the level originally budgeted for the 2005-07 biennium. Most of this increase ($30.1 million total funds) is due to higher per person costs for adoption support and foster care services than originally budgeted. These higher per person costs are partially offset by a savings of $9.6 million in total funds from lower caseloads than assumed in the original budget.

The Children's Administration continues to work with the Braam Oversight Panel to establish benchmarks and achieve outcomes in areas related to placement safety and stability, mental health, foster parent training, sibling separation, and services to adolescents. The budget provides the following funding increases to support a number of these goals:

- $5.8 million in state funding to phase-in an additional 200 child welfare workers toward achieving the goal of face-to-face contact with children, parents, and/or caregivers every 30 days, for both in-home services and out-of-home placements.
- $3.8 million in state funding for a new statewide-automated child welfare information system (SACWIS), which is expected to improve the Department of Social and Health Services' (DSHS) ability to report on Braam-related outcomes.

- $1.0 million in state funding for legislation that expands services to foster parents and children. Chapter 266, Laws of 2006 (2SHB 2002), extends foster care eligibility to age 21 for an additional 50 youths per year who pursue post-secondary education. Chapter 353, Laws of 2006, Partial Veto (2SHB 3115), establishes a statewide foster parent recruitment and retention program, involving in-home training for foster parents who care for sexually and physically aggressive youth.
- $0.9 million in state funds for costs associated with supervised visitation, which can allow the parent to demonstrate parenting skills and expedites permanency.
- $0.3 million in state funding for costs associated with placement evaluations, which assist in preventing out-of-home placements, making appropriate out-of-home placements, or implementing a permanent plan.

Juvenile Rehabilitation Administration
The supplemental budget provides $0.3 million for enhanced staffing to support juvenile offenders residing in mental health living units at Echo Glen Children's Center and Maple Lane School.

Mental Health
State funding for the public mental health system is increased by $54.8 million (7.3 percent). Major increases include:

- $33 million ($30.8 million state) to begin a comprehensive transformation in the delivery of public mental health services for people with severe and persistent mental illness. Core components of the strategy include opening five additional wards at Eastern and Western State Hospitals on a temporary basis, at a cost of $29 million this biennium and $31 million next; and providing $3.2 million this biennium for initial development of new community program approaches which, when fully operational next biennium, will cost approximately $34 million, and will permit phased closure of the wards that are being opened this biennium. Other elements of the system transformation include development of a plan for expanding community housing options for people with persistent mental illness; development of a utilization review system to assure people receive appropriate levels and duration of inpatient care; a comprehensive review of the state's involuntary commitment statute and system; and a study of alternative approaches to establishing Medicaid managed care rates, with particular emphasis upon approaches that emphasize defined benefits levels and risk adjustment.
- $22.2 million ($11.2 million state) to increase Medicaid managed care payments for community mental health services. Regional Support Network's (RSNs) whose rates are above the statewide average will receive a 3.5 percent rate increase. RSNs whose rates are below the current statewide average will be increased to that average.
- $2.0 million (state) to satisfy a judgment in a lawsuit brought by Pierce County charging that DSHS had illegally denied prompt state hospital admission of persons committed for long-term treatment and had inappropriately charged the Pierce RSN for excessive use of the state hospitals.
- $1.8 million ($1.3 million state) to increase staffing in the criminal offender unit at Eastern State Hospital.

Developmental Disabilities
2006 supplemental state and federal spending on the Developmental Disabilities Medicaid Personal Care (MPC) program total $345 million for the biennium, 3 percent less than budgeted under the 2005-07 enacted budget. This is $10.9 million in total funds and $5.7 million in state funds lower than the 2005-07 enacted budget, primarily due to a lower caseload of children eligible to receive MPC services than originally anticipated. In total, a biennial average of 11,400 adults and children are expected to eligible for MPC services during the 2005-07 biennium.

A total of $1.2 million in state and federal funding is provided for an additional 19 persons needing community residential and support services. Seven additional clients will be served in the community protection program,

and priority consideration for the remaining 12 placements must be for children with high behavior needs aging out of state services; clients who are in crisis or immediate risk of needing an institutional placement; and residents of state institutions who have chosen to move to a community setting.

The sum of $1.1 million is provided to extend employment and day services to approximately 250 additional clients. Priority consideration for this new ongoing funding will be young adults living with their families who need employment opportunities and assistance after high school graduation.

A rate increase is provided for supported living providers of 15 cents per hour for King County providers and 12 cents per hour for all other providers. A total of $1.9 million in state and federal funding is provided for this enhancement.

A total of $1.4 million in state and federal funding is provided to add 14 case resource managers and related support staff in fiscal year 2007 for more timely distribution of programs to clients waiting for services, including Medicaid Personal Care, family support, and other programs. Half of the caseworkers will be devoted to accelerating the implementation of the Mini-Assessment tool to clients who are currently not receiving paid services.

Long-Term Care
A total of $2.6 billion is appropriated for DSHS to provide long-term care services to an average of 49,600 elderly and disabled adults per month. This is $320 million (14 percent) more than was expended on such services last biennium and $93 million (3.7 percent) more than was originally budgeted for the 2005-07 biennium.

The 2006 supplemental budget contains a number of adjustments to long-term care provider payment rates, including:

- $20.2 million to increase nursing facility payment rates in accordance with Chapter 258, Laws of 2006 (EHB 2716).
- $2.3 million to provide boarding homes and adult family homes with a 1 percent vendor rate increase in addition to the 1 percent annual vendor rate increases provided in the initial budget.
- $2 million to increase payments for assisted living facilities that meet certain criteria.
- $1.5 million to restore a reduction to Area Agency on Aging (AAA) services included in the original budget and to provide AAAs with the same 1 percent annual vendor rate increase as was provided in the original budget for most other health and human services contractors.

In addition, a total of $11.3 million is provided to implement Chapter 9, Laws of 2006 (SHB 2333), which requires that home care agency payment rates include all of the same wage and benefit increases as are awarded to individual home care providers through collective bargaining or binding arbitration. The Department's contribution rate for health care benefits, including medical, dental, and vision benefits, will be paid to agency providers of home care services at the same rate as negotiated and funded for individual providers, increasing monthly premium payments from $413 per eligible worker to $532 per eligible worker in fiscal year 2007. In addition, monthly premium payments for fiscal year 2006 are increased from $380 per eligible worker to $449 per eligible worker.

The 2006 supplemental budget also appropriates a total of $15 million to settle a lawsuit between DSHS and nursing home contractors. The disbursement of these funds is contingent upon the plaintiff's release of all claims in the case.

Economic Services Administration
A total of $51 million is provided to balance WorkFirst (Washington's program for Temporary Assistance to Needy Families and Working Connections Child Care), a state and federally-funded program managed by the Governor. The Governor requested a 2005 workgroup to re-examine the WorkFirst program, which has a $106 million deficit for the 2005-07 biennium and to provide recommendations to balance the program. In addition to the use of $20 million in resources from federal incentives and other one-time sources, the Governor expects to implement portions of the workgroup's recommendations by making $36 million in reductions through various efficiencies, caseload reductions, and full-family sanctions. Child care is unaffected. A total of $50.5 million in new state funds is provided to balance the remaining shortfall. An additional $0.7 million is provided due to a delay in implementation of full-family sanctions until March 1, 2007.

A total of $1.5 million is provided to supplement existing state and federal funds dedicated to limited English proficiency services, which assist public assistance-eligible refugees and others who have a limited ability to speak English by providing specialized job training, English-as-a-Second-Language classes, and other services.

Medical Assistance Administration
State and federal spending on the Medical Assistance program is now budgeted to total $7.7 billion for the biennium. This is $58 million (0.8 percent) less than previously budgeted.

The primary reason for the reduced expenditure is that caseloads are growing more slowly than previously projected. A biennial average of 915,000 low-income persons per month are now expected to receive medical and dental care through the program. This is 2.2 percent less than the average of 936,000 people per month anticipated in the original biennial budget.

The savings from slower caseload growth are largely offset by higher medical cost inflation, and by two significant program enhancements. Medical costs per person covered are now projected to increase by an average of about 3.6 percent per year, rather than by the average of about 3.3 percent per year anticipated in the original biennial budget. Significant program enhancements include:

- $18.2 million in state funds to cover the co-payment costs that 100,000 elderly and disabled Washingtonians whose drug costs were previously covered in full by the state Medicaid program are now being charged under the new federal Medicare Part D program.
- $7.3 million in state funds to increase the number of children enrolled in the Immigrant Children's Health Program to 13,000 in July 2006 and to 14,000 in October 2006. The program currently provides medical and dental care for 4,300 children whose family incomes are below the poverty level but who are not eligible for Medicaid because of their immigration status.

Other Human Services

Health Care Authority
An additional 6,500 low-income people will receive state-subsidized Basic Health Plan coverage during fiscal year 2007, at a cost of $12.5 million.

Grants to community clinics that provide free and reduced-cost care are increased by $2.0 million (21 percent).

A total of $1.2 million is provided for a new program which will evaluate the effectiveness and efficiency of different health technologies and procedures and provide recommendations to state agencies to assist with their coverage and purchasing decisions.

A new, $1.5 million program will provide two-year grants of up to $250,000 to assist community-based organizations by increasing access to appropriate, affordable health care for Washington residents, particularly low-income working individuals.

A total of $625,000 is provided for initial design and development of a new program through which the state may subsidize enrollment in employer-sponsored health insurance for low-income workers in small businesses.

Criminal Justice Training Commission
One-time funding of $0.9 million is provided for the Criminal Justice Training Commission (CJTC) to run additional Basic Law Enforcement Academies (BLEA) during fiscal year 2006 and fiscal year 2007. With this funding, CJTC will conduct a survey of local law enforcement and state agencies and collect data needed to project future cadet enrollments for the 2007-09 biennium. CJTC will report back to the Legislature by October 1, 2006.

A total of $0.6 million is provided to the Washington Association of Sheriffs and Police Chiefs to develop a missing persons website in accordance with Chapter 102, Laws of 2006 (2SHB 2805), and to implement a victim information and notification system. It is anticipated that any additional funds needed to operate the victim notification system will be provided through a federal grant.

A total of $1.6 million is provided to establish three pilot rural narcotics task forces in the northeast, southeast, and southwest regions of the state. Chapter 339, Laws of 2006 (E2SSB 6239), establishes the task forces' framework, with each pilot area receiving four sheriff deputies, two prosecutors, and one clerk.

Department of Labor and Industries
A total of $2.0 million is provided for three aspects of the Crime Victims Compensation Program. First, the budget restores the program's reimbursement rates for mental health care to worker's compensation rates beginning in fiscal year 2007. Second, funding is provided for implementation of Chapter 268, Laws of 2006 (HB 2612), which expands eligibility for crime victim compensation to victims of vehicular crimes resulting from failure to secure a load. Finally, by statute, the Crime Victims Compensation Program's rates for inpatient hospitalization cannot be lower than those paid by the Department of Social and Health Services. The rates for the Medicaid program were increased in the 2005-07 biennium.

A total of $1.2 million is provided to the Department to implement additional fraud-detecting technology known as the Employer Audit Technology and Referral System by July of 2007. The new system will allow for automation of several auditing tasks currently performed manually. The cost to build and implement the new system will be recovered in the first year of its use (fiscal year 2008) and will produce ongoing benefits. One-time costs are $662,000.

Since fiscal year 2001, the number of electrical inspections requested per day has increased by 36 percent. A total of $0.9 million is provided for the Department to hire eight additional electrical inspectors to complete the majority of inspection requests within 24 hours.

A total of $1.6 million is provided for agricultural growers impacted by the cholinesterase monitoring regulation. The funding is to defray the cost of medical monitoring by health care providers and blood testing by the state public health lab.

Department of Veterans' Affairs
The operating budget provides $2 million for the creation of the Veterans' Innovations Program. The program will consist of two competitive grant programs overseen by a volunteer board to provide economic support in the form of grants to returning veterans and their families, as well as grants to locally-proposed innovative service programs.

The sum of $0.5 million is included to support the Department's community-based network in assisting returning Iraq and Afghanistan military personnel in applying for benefits and services. The funding will support 28 family activity days for returning veterans and their families that will provide information on securing federal and state benefits and services. This funding will also support local service organizations' efforts to assist an estimated 1,500 additional veterans with federal benefit claims and to provide approximately 130 new returnees with post-traumatic stress disorder treatment.

An appropriation of $100,000 is provided to support veterans with transportation, clothing, and work tools to enable them to participate in the Veterans' Conservation Corps.

Department of Corrections
Including changes made in the supplemental budget, a total of $1.5 billion is appropriated for the Department of Corrections to incarcerate an average of 18,000 inmates per month and to supervise an average of 25,600 offenders per month in the community. This is 4.1 percent ($58.2 million) more than was originally budgeted for the 2005-07 biennium. Most of this increase ($36.2 million) is due to higher-than-expected increases in the community supervision caseload, medical costs, and other maintenance level changes.

The budget provides $11.3 million in state funding to complete the third phase of the Offender Management Network Information (OMNI) system, which will replace the Offender-Based Tracking System. The new system is expected to reduce staff data entry efforts, improve reporting capabilities, and redirect staff time towards offender supervision. The total cost of the OMNI project has been estimated at $50 million.

Chapter 460, Laws of 2005 (E2SHB 2015), created a community-based Drug Offender Sentencing Alternative (DOSA) option. The court may waive the standard sentence for eligible offenders and impose a term of residential treatment for three to six months followed by a term of community custody. A total of $3.2 million in funding is provided for 100 community-based residential treatment beds and the cost of court-ordered examinations for offenders who are being considered for community-based DOSA.

The budget provides funding for drug policy legislation pursuant to Chapter 339, Laws of 2006 (E2SSB 6239): $0.4 million for 100 additional therapeutic drug and alcohol treatment placements for offenders in institutions; $0.3 million for longer DOSA sentences to allow for more time for substance abuse treatment; and $0.5 million for chemical dependency screenings for all felonies where the court determines that a dependency problem contributed to the offense.

The budget provides $1.6 million in funding for additional prison beds as a result of increased penalties for sex offenders:

- Chapter 128, Laws of 2006 (2SSB 6319), increases penalties for failure to register as a sex offender, resulting in a mandatory prison term for second and subsequent convictions of this offense. The term of community custody is also increased from 12 months to up to 48 months.
- Chapter 139, Laws of 2006 (2SSB 6172), increases penalties for voyeurism and possession of child pornography.
- Chapter 123, Laws of 2006 (2SSB 6460), requires the court to impose sentencing enhancements for felony crimes committed with sexual motivation.

Department of Employment Security
A total of $1.2 million is provided to enhance fraud detection within the unemployment insurance system of the Employment Security Department. A new fraud detection unit is created that will identify, prosecute, and collect from people who file inaccurate or fraudulent unemployment claims that result in overpayments. The Department will also increase its pursuit of employers who do not pay their unemployment insurance taxes. It is anticipated this investment will generate approximately $14.2 million in revenue during fiscal year 2007.

Department of Health
The 2006 supplemental budget authorizes the Department of Health to spend $36 million (4.1 percent) more than originally budgeted for the biennium. Major increases include:

- $9.3 million of new or increased federal grants. New grant awards total approximately $1.7 million and will support the collection and analysis of data regarding the medical care needs and risk behaviors of persons with HIV infection. Continuing grants receiving substantial increases include: $2.1 million for cardiovascular disease prevention; $2.2 million for development of an environmental health tracking network; and $1.2 million to assess alternative models of genetics service delivery.
- $9.0 million ($2.0 million state) for the state and local health departments to prepare for the possibility of a flu pandemic, such as might arise from the avian flu virus.
- $4.0 million ($2.9 million state) to add at least four new vaccines to the schedule of routinely-recommended childhood immunizations.
- $1.4 million (state and total) to increase the number of low-income, uninsured women screened for breast and cervical cancer by 23 percent.

Natural Resources

Department of Ecology
Puget Sound Cleanup
Funding is provided for Puget Sound cleanup and pollution prevention, which include the following items:

- $0.7 million to prioritize and cleanup the 115 known contaminated sites that lie adjacent to and within one-half mile of Puget Sound. (State Toxics Control Account)
- $0.8 million to implement a state oil transfer inspection program that will inspect at least 35 percent of the more than 9,600 oil transfer operations performed each year. (Oil Spill Prevention Account-State)
- $0.5 million to implement pollution source control measures in the Lower Duwamish Waterway in support of a multi-party cleanup effort, as well as coordinate source control and cleanup of state-owned aquatic lands and adjacent uplands around Puget Sound. (State Toxics Control Account)
- $0.2 million for early hazardous material spill response and to address the potential for hazardous materials releases from transportation, oil refining activities, and pipelines in areas in and adjacent to Puget Sound. (States Toxics Control Account)

Hanford Cleanup Priority Act
The Cleanup Priority Act (CPA) was passed by Washington State voters in 2004 and requires the Department to undertake specific actions for the cleanup of the Hanford Nuclear Reservation. The CPA was challenged in court by the federal government. Funding of $2.9 million is provided for legal defense costs and to implement the CPA in the event the court case is resolved this summer.

Columbia River
$2.0 million in funding is provided to the Department to implement Chapter 6, Laws of 2006 (E2SHB 2860), which creates a new chapter to guide the appropriation of Columbia River main stem water, creates the Columbia River Basin Water Supply Development Account, and requires studies, data collection, and inventories on water issues in the Columbia River basin. One-time funding of $0.2 million is also provided to address air quality issues in the Columbia River Gorge in cooperation with the state of Oregon.

State Parks & Recreation
Backfill Parking Fees
A total of $3.1 million is provided to fully mitigate the impact of discontinuing the collection of state parks' parking fees.

Parks Maintenance and Repair
One-time funding of $0.7 million is provided for repair and maintenance costs at state parks.

Department of Fish and Wildlife
Salmon Marking and Research
Funding of $5.4 million is provided to mass-mark fish at hatcheries that produce chinook salmon to meet the requirements of the endangered species act. In addition, funding is provided to research the impacts of contaminants on resident chinook and ground fish.

Increase Fish Production
One-time funding of $0.5 million is provided to increase fish production levels at state-operated fish hatcheries. The Department is required to submit a report to the Legislature documenting the increased production levels by July 31, 2007.

Puget Sound Nearshore Ecosystem Restoration
Funding of $0.5 million is provided for a state match for the Puget Sound Nearshore Ecosystem Restoration Project, which is a feasibility study to analyze large-scale restoration actions to protect and restore the Puget Sound ecosystem. The study will be used to prioritize a list of projects across Puget Sound for submission to the U.S. Army Corps of Engineers and to Congress for funding.

Department of Natural Resources
Geologic Hazards Program
Funding of $0.7 million is provided for the Department's geological survey to conduct and maintain an assessment of the volcanic, seismic, landslide, and tsunami hazards in Washington. Ongoing funding and staffing are provided to research and map earthquake and landslide hazards throughout Washington.

Puget Sound Cleanup
In cooperation with the Department of Ecology, the Department is provided with $0.09 million to target contaminated aquatic sites where early cleanup and source-control actions will allow for restoration of state resources, to include geoduck and other shellfish/habitat.

Regulation of Surface Mines
Appropriation authority of $1 million is provided to implement Chapter 341, Laws of 2006 (E2SSB 6175), which authorizes the Department to collect surface mining and reclamation permit fees to cover program costs.

Department of Agriculture
Renewable Fuel/Biodiesel
Funding of $0.14 million is provided to implement Chapter 338, Laws of 2006 (ESSB 6508), which establishes minimum fuel content requirements for biodiesel and ethanol of at least 2 percent by 2008. Ongoing funding of $0.15 million is also provided for a multi-agency effort to promote the development of a bioenergy industry in Washington.

Pandemic Avian Flu Monitoring and Outreach
Domesticated bird populations are potential carriers of various pandemic flu strains that may be transmitted to humans. Funding of $0.1 million is provided to increase the state's ability to detect and monitor pandemic flu activity.

Puget Sound Action Team
Hood Canal Study
Funding of $0.3 million is provided for the Puget Sound Action Team, in coordination with the Hood Canal Coordinating Council, to contract for the initial phase of a two-part study to improve data and knowledge on nitrogen loading and removal from systems in Hood Canal.

Transportation

The majority of the funding for transportation services is included in the transportation budget, not the omnibus appropriations act. For additional information on funding for these agencies and other transportation funding, see the Transportation section. The omnibus appropriations act includes only a portion of the total funding for the Department of Licensing and the Washington State Patrol.

Public Schools

Maintenance Level Changes
A total of $93 million is provided in increased maintenance level costs associated with: 1) 3,571 more students in the 2005-06 school year and 8,119 more students in the 2006-07 school year from the enrollment levels assumed in the original budget; 2) an increase in the inflation factor used in providing an Initiative 732 cost-of-living adjustment (COLA) to K-12 employees for the 2006-07 school year from 1.7 percent to 2.8 percent; and 3) other adjustments, such as inflation increases and additional levy equalization costs, that on net increased estimated state K-12 costs from the amounts assumed in the original 2005-07 budget.

Student Remediation Assistance
A new program is created, called the Promoting Academic Success (PAS) program, which will be designed to help students who have been unsuccessful on one or more sections of the 10th grade Washington Assessment of Student Learning (WASL) test prepare for retakes. School districts will receive funding based on eligible students actually served in the PAS program and may use the new funding to offer intensive instruction in ways that best fit the needs of the districts' students, including: summer school; Saturday or extended day programs; skill seminars; test preparation seminars; and in-school or out-of-school tutoring. The funding provided includes: 1) $2.8 million in one-time allocations that support planning and curriculum alignment efforts associated with establishing the program; 2) $20.2 million for serving Class of 2008 students; 3) $4.1 million for one-time allocations that will allow school districts to provide WASL remedial instruction to Class of 2007 students or to address other remediation needs identified by the Office of Superintendent of Public Instruction; and 4) $1.5 million for a grant program to reward districts for innovative and successful remediation programs.

In the future, the PAS program is designed to provide remedial funding for one graduating class each fiscal year. The funding provided for each graduating class is intended to provide remedial assistance to students throughout their junior and senior year, as needed, to successfully pass the WASL. The budget language allows districts to carry over up to 20 percent of PAS funds from one year to the next to meet the needs of students who were not successful on initial retakes and need additional assistance in their senior year in preparing for WASL retakes.

School Employee Salary Increase
Funding is provided for an additional 0.5 percent salary increase (beyond the 2.8 percent Initiative 732 COLA) for state-funded K-12 employees during the 2006-07 school year.

Natural Gas and Diesel Fuel Price Increases
One-time funding is provided for: 1) additional allocations to help school districts in managing recent increases in diesel fuel prices ($5.6 million); and 2) additional assistance to school districts in managing recent increases in natural gas rates and heating oil prices ($2.1 million).

Assessment Funding Adjustments
Funding is provided for additional contractor and other costs associated with having the 10th grade assessment results returned to students by June 10th of each year and the development and administration of the state-required science WASL.

Vocational Equipment Replacement
One-time funding is provided to replace and upgrade equipment in vocational and Skills Center programs. Specifically, the funding will be distributed based on $75 per vocational student and $125 per student at Skills Centers.

Restore Levy Equalization
The original 2005-07 budget made a prorated levy equalization reduction of 4.4 percent during calendar years 2006 and 2007. This reduction is restored in the budget for calendar year 2007. The net effect will be an estimated increase in state levy equalization payments to school districts of $8.8 million during calendar year 2007 and $4.8 million during state fiscal year 2007.

Navigation 101
The Navigation 101 program is a counseling and mentoring program to help students set goals, take courses that will further their goals, and learn where their skills lie. Funding is provided to make the Navigation 101 curriculum available to all school districts. Additionally, funding is provided for grants to at least 100 school districts to implement the Navigation 101 program.

Math Remediation
Funding is provided for the development and distribution of modules aimed at assisting teachers and students in mathematics. Additionally, a new 10th grade mathematics assessment tool that presents the mathematics essential learnings in segments for assessment will be developed.

Staffed Residential Homes Pilot Grant Program
Funding is provided for a pilot grant program related to serving students in staffed residential homes. The pilot grant program will seek to identify the fiscal and educational challenges posed to districts that serve concentrations of staffed residential home students and provide resources to help address these challenges. As part of the pilot grant program, a study will be conducted to make findings and recommendations regarding the variety of circumstances and needs present in the staffed residential home population and recommendations regarding how to best meet those needs.

Student Data System
Funding is provided to create a statewide database of longitudinal student information. The database will: provide a central repository for student achievement and demographic information; allow teachers to review and track individual student achievement over time on state-standardized and classroom-based assessments by specific content strands; and provide a way to develop, track, and transfer student learning plans.

School Breakfast Programs
Funding is provided for the following enhancements to the school breakfasts programs: 1) the level of reimbursement per meal is increased for each student eligible for free or reduced prices; 2) the co-pay is eliminated for students eligible for reduced prices; and 3) additional resources are provided to assist school districts in establishing summer food programs.

CISL/Ombudsman
Funding is provided to implement Chapter 116, Laws of 2006, Partial Veto (ESHB 3127), which reinstates the Center for Improvement of Student Learning (CISL) and creates an ombudsman program which will be implemented through regional offices by the Governor's Office.

Safe Schools Federal Backfill
The federal government has reduced the amount of funding provided to Washington State for the Safe and Drug-Free Schools and Communities grants by approximately $1.5 million or 21 percent in fiscal year 2007. The budget provides one-time funding to help mitigate the impact of this federal budget reduction. Of this amount, $200,000 is provided to the Department of Community, Trade, and Economic Development and $800,000 is provided in the K-12 section of the budget.

Alternative Routes to Teaching
The alternative route to teaching program provides conditional loan scholarships for candidates seeking teacher certification in an area in which school districts are experiencing shortages. This program is administered by the Professional Educator Standards Board. Funding is provided for additional scholarships specifically for candidates in special education, math, science, and bilingual education.

National Board for Professional Teaching Standards
Funding is provided for costs associated with fringe benefits on the $3,500 salary bonus provided to each of the teachers with National Board for Professional Teaching Standards certification in fiscal year 2006 and fiscal year 2007. Funding will maintain the bonus amount paid to national board certified teachers at $3,500 per year.

Closing the Achievement Gaps Pilot
Funding is provided for a parent, community, and school district partnership program that will meet the unique needs of different groups of students in closing the achievement gap. The Office of Superintendent of Public Instruction will award five partnership grants. The intent of the pilot program is to help students meet state learning standards, achieve the skills and knowledge necessary for college or the workplace, reduce the achievement gap, prevent dropouts, and improve graduation rates.

Other K-12 Enhancements
Funding is provided for a variety of smaller K-12 enhancements including the following: additional Attorney General Office services related to a lawsuit dealing with special education funding ($1.1 million); additional funding for incentives to increase Skills Center enrollment and funding for summer programs ($0.4 million); anti-bias training ($0.325 million); environmental education programs ($0.15 million); youth suicide prevention ($0.1 million); financial literacy programs for students ($0.05 million); and other smaller miscellaneous increases.

Higher Education

New Enrollments
A total of $6.1 million is provided for a total of 497 new high-demand enrollments at programs throughout the state. Specific funding is provided for enrollments at the following institutions:

- University of Washington (UW): 150 students in engineering, math, and science baccalaureate programs.
- Washington State University (WSU): 80 students in baccalaureate and graduate nursing programs or for baccalaureate programs in engineering and construction management.
- Regional universities and The Evergreen State College: 80 enrollments, to be coordinated in a high-demand enrollment pool by the Higher Education Coordinating Board (HECB).

- State Board for Community and Technical Colleges (SBCTC): 187 enrollments for high-demand fields where enrollment access is limited and employers are experiencing difficulty finding qualified graduates to fill job openings.

A total of $1.1 million is provided for the SBCTC to develop implementation plans for offering applied baccalaureate degrees at four pilot sites as well as the ongoing cost of program funding. Additionally, the budget provides funding for three community and technical colleges to increase the per student state subsidy to $6,300 per student for the purpose of contracting for upper-divisional coursework.

Workforce Training
A total of $4.1 million is provided for SBCTC and Workforce Training and Education Coordinating Board to develop and implement opportunity grant programs at selected colleges. The opportunity grants will provide low-income students enrolled in the program with funding to cover the costs of workforce education, which may include tuition, books, fees, and other expenses associated with participating in the program.

The sum of $3.2 million is provided for implementation of Chapter 112, Laws of 2006 (2SSB 6326), which establishes the Washington Customized Employment Workforce Training Program, to be administered by the SBCTC. The program allows employers locating in the state or expanding in the state to receive funding for employee training. When employees complete the training, employers pay for a quarter of the training cost and are to pay the remaining three-quarters of the cost within 18 months. Additionally, eligible employers receive a 50 percent business and occupation tax credit. The bill creates a new account, the Employment Training Finance Account and includes a $3.1 million appropriation from the state general fund to the new account. All of the programs revenues and expenditures must be out of the new account.

A total of $1 million is provided for expansion of the Job Skills program run by the SBCTC. Funds will be matched by employers as part of the program's requirements. Additionally the Board is encouraged to apply any savings gained through the SmartBuy program for additional funding for the job skills program.

Compensation
A total of $3.3 million is provided to implement the COLAs as specified by Initiative 732. Additionally, $1.5 million is provided for additional faculty increments at the community and technical colleges. The amount provided must be allocated proportionally to part-time and full-time faculty based on their respective salary bases.

A total of $0.8 million is provided to maintain health care benefits for part-time academic employees at community and technical colleges, provided the employees establish and maintain an annual average workload pattern of over 50 percent time, as specified in Chapter 308, Laws of 2006 (2SHB 2583).

Operations Support
One-time funding of $3 million is provided to institutions of higher education for assistance in managing recent increases in natural gas rates during fiscal year 2006. The funding provides the General Fund-State share of 17.5 percent increase in natural gas costs.

A total of $5.7 million is provided for maintenance and operations costs for 35 instructional facilities located throughout the state. This includes 32 projects for community and technical colleges and three projects for WSU located in Spokane, Prosser, and Vancouver.

A total of $2 million is provided for UW to pay for operations and maintenance costs of the Bioengineering and Genome Sciences buildings that will become operational during the 2005-07 biennium.

New Programs and Research
A total of $4.3 million is provided for life sciences research throughout the state. This includes the following projects:

- $2.4 million for UW to increase its capacity to conduct life sciences research. State funding will be leveraged with private and federal investments.
- $1 million for WSU for the development of life sciences research located in Spokane. The research will focus on developing and implementing new medical treatment therapies.
- $0.9 million for the Life Sciences Discovery Fund Authority for start-up costs. Legislation from 2005 created the Life Sciences Discovery Fund Authority to provide grants for life sciences research.

A total of $0.8 million is provided for WSU for the operation of the AgNetWeather System. The system will provide data for fire services, scientists predicting movement of airborne particulates, and for additional weather-dependent state and private agricultural, natural resource, and environmental activities throughout the state.

Other Education

Department of Early Learning
Pursuant to Chapter 265, Laws of 2006 (2SHB 2964), a total of $1.5 million is provided in one-time and ongoing funding related to the establishment of the new Department of Early Learning (DEL), which is a cabinet-level agency. Duties transferred either through the legislation or from an assumed transfer agreement with other state agencies to the newly-created DEL include: state employee childcare; state policy and licensing of childcare; the Working Connections Child Care subsidy program; the Head Start Collaboration Office; and the Early Childhood Education and Assistance Program.

A total of $1 million is provided for the child care career and wage ladder program established in Chapter 507, Laws of 2005, Partial Veto (SHB 1636), allowing participating licensed child care centers to receive supplemental state funding to base wages upon experience, education, and responsibility.

A total of $0.4 million is provided to expand the Early Reading Grant Program in DEL, which supports community-based initiatives that develop pre-reading and early reading skills through parental and community involvement, public awareness, and partnerships with local school districts. Pursuant to Chapter 120, Laws of 2006 (SHB 2836), the amount will be deposited into the newly-established Reading Achievement Account.

Washington State Historical Society
A total of $0.5 million is provided for increased costs associated with the discovery of Native American remains at the Station Camp Unit in Lewis and Clark Historic Park.

Special Appropriations

Special Appropriations to the Governor
A total of $23 million is provided to establish a bioenergy assistance program within the Department of Agriculture to reduce the state's dependence on foreign energy and increase the use of agricultural products as a source of energy to supplement or supplant petroleum-based fuels. Also, one-time funding is provided to develop alternative energy production projects in communities adversely affected by major job reductions in the forest and paper products industry.

A total of $14 million General Fund-State is deposited in the Washington Housing Trust Account to fund various housing assistance programs including: a portion of the Washington Housing Trust Account backlog of eligible projects; Energy Matchmakers Program; vouchers for low-income persons, including homeless persons and

victims of domestic violence, and seasonal farm workers; farm worker housing; persons with developmental disabilities; mobile home preservation; Homeless Families Services Fund; and home buyer assistance.

A total of $4 million is provided from the Economic Development Strategic Reserve Account to implement Chapter 427, Laws of 2005 (2SSB 5370). The Governor, upon recommendation of the Director of the Department of Community, Trade, and Economic Development and the Economic Development Commission, may authorize the use of the funds to recruit businesses, support public infrastructure, and provide technical assistance to prevent business closure or relocation outside the state.

An additional $0.5 million is provided for distribution to local jurisdictions for the purchase of interoperable communications technology to assist communications across agencies and jurisdictions in case of a disaster.

State Employee Compensation

$1,000 Minimum Monthly Benefit For Plan 1 Retirees

Funding is provided for Chapter 244, Laws of 2006 (SB 6453), which extends eligibility for the alternative minimum benefit in the Public Employees' Retirement System Plan 1 (PERS 1) and the Teachers' Retirement System Plan 1 (TRS 1) to members who have at least 20 years of service and who have been retired for at least 25 years. In addition, an annual increase of 3 percent is added to this $1,000 minimum benefit.

Pension Contributions

Funding is provided for new employer contributions towards the unfunded accrued actuarial liabilities in PERS Plan 1 and TRS Plan 1. Unfunded liability contributions begin on September 1, 2006, in TRS and the School Employees' Retirement System (SERS), and on January 1, 2007, in PERS and the Public Safety Employees' Retirement System (PSERS). Contribution rates will be 1.77 percent in PERS, 1.29 percent in TRS, 0.87 percent in SERS, and 1.77 percent in PSERS. State employer contributions that would normally be made from the General Fund-State are made from the new Pension Funding Stabilization Account instead. State and local government employer contributions towards the unfunded liabilities will continue to increase through the 2007-09 biennium as part of a three-year phase-in of contribution rates.

2006 Supplemental Capital Budget Highlights

Overview
The 2006 Supplemental Capital Budget, Chapter 371, Laws of 2006, Partial Veto (ESSB 6384), appropriates $144 million in new state general obligation bonds and $313 million in total funds. The budget funds $59 million in increased prison capacity for public safety legislation enacted by the 2006 Legislature, $24.5 million in alternative energy projects, $21 million in low-income housing projects and activities, $35 million for higher education facilities, $10 million for the beginning of the Columbia River Basin Water Supply Development program, and nearly $100 million in other environmental and recreation projects.

State General Obligation Bonds
Of the $144 million in new state general obligation bonds, $60 million is from existing bond authority including half that are Gardner-Evans bonds for higher education projects and half that are bond authority provided in the 2005 bond bill. The remaining bond budget is authorized in Chapter 167, Laws of 2006 (ESHB 3316). The bond authorization bill provides specific bond authority for $59 million of prison construction. It also authorizes $14 million for cleanup of Puget Sound and Hood Canal, and $200 million of bonds over ten years for the Columbia River Basin Water Supply Development program. Ten million dollars of the $200 million for the Columbia River is appropriated in the supplemental capital budget.

Public Safety
The 2006 Legislature enacted three bills that increase sentencing for sex offenders (Chapters 123, 128, and 139, Laws of 2006) and one bill (Chapter 73, Laws of 2006) that increases penalties for driving under the influence. The capital budget provides $59 million to increase prison capacity by 692 beds. Two additional housing units at the Coyote Ridge Corrections Center are funded, increasing the capacity of the new prison to 1,792 beds. Bed expansions at Cedar Creek and Larch Correction Centers are also included.

Higher Education
Within the $35 million higher education supplemental capital budget, the Legislature provided $10 million for initial construction work on the Washington State University Biotechnology/Life Sciences building, $4.5 million to support the development of a nanotechnology research lab at the University of Washington (UW), $4 million for land acquisition at the UW Tacoma campus, and $9.7 million for six community college projects.

Renewable Energy
The capital budget appropriates $24.5 million to support the development of renewable energy in the state. Of that amount, $23 million is appropriated to the Energy Freedom Account from the state general fund in the supplemental operating budget, Chapter 372, Laws of 2006, Partial Veto (ESSB 6386). Five biofuel projects in eastern Washington received $10.3 million in low-interest loans to stimulate the development of the state's bioenergy industry. An additional $6.8 million is provided for the Energy Freedom Program established by the 2006 Legislature in Chapter 171, Laws of 2006 (E3SHB 2939). The Grays Harbor Public Utility District also received $7.5 million in assistance for an alternative energy project that will also help stabilize jobs in the timber products industry.

Low-Income Housing Assistance
An additional $21 million is provided for the Housing Trust Fund program. Of that amount, $14 million was appropriated from the state general fund to the Washington Housing Trust Account in the supplemental operating budget (Chapter 372, Laws of 2006, Partial Veto, Section 714). Funding is provided for the "backlog" of eligible Housing Trust Fund projects; housing vouchers for homeless persons, victims of domestic violence, low-income persons, or seasonal farm workers; the Energy Matchmakers program; housing for persons with developmental disabilities; housing for victims of domestic violence; farm worker housing projects and programs; implementation and management of a manufactured/mobile home landlord-tenant ombudsman conflict resolution

program; the Homeless Families Service Account, limited to residents living in housing subject to a regulatory agreement related to rent and/or income restrictions; and a homebuyer assistance program.

Columbia River Basin
The 2006 Legislature enacted the Columbia River Basin Water Supply Development program in Chapter 6, Laws of 2006 (E2SHB 2860). The program seeks to improve instream flows for salmon and provide more water for agricultural and municipal use. To help fund the development of water storage facilities that will be required to accomplish this, $200 million in bond authority over ten years was provided in the bond bill and $10 million of that was appropriated in the supplemental capital budget.

Puget Sound and Hood Canal
Puget Sound and Hood Canal cleanup projects received $54 million in the capital budget, including $30 million from higher earnings in the toxic control accounts and $13 million from new bond authority. Projects include: cleanup of toxic waste at Bellingham Bay and the Port of Tacoma; on-site sewage repair and replacement grants; wastewater treatment and water quality improvements at state parks; creosote log removal; and innovative stormwater project grants.

Recreation and Habitat
The capital budget also provided $8 million for habitat protection and recreation improvements, including: the preservation of rare shrub-steppe lands in eastern Washington; acquisition of land at the Bear Creek Corridor; and addressing the backlog of maintenance and repair projects at state parks.

2006 Supplemental Transportation Budget

The supplemental transportation budget makes minor adjustments to last year's biennial budget, deals with unexpected circumstances, and enacts minor policy shifts to improve safety, preserve at-risk roads and bridges, and enhance the state's economy. The principal fiscal challenges in 2006 are the upward pressures on fuel, labor, and construction costs.

This supplemental transportation budget also represents the first budget in the implementation phase of the 2005 Transportation Partnership Act, as affirmed by the voters in November. It is also a continuation of the 2003 Nickel Package commitments. While some schedule changes and reallocation of funds were necessary to address project cost changes, the dedicated funds remain intact and are sufficient to fund the list of projects set forth when the packages were developed by the Legislature.

Major themes in the budget are safety, efficiency, accountability, mobility, and governance improvements.

Safety

- Funds are provided to speed up work on dangerous hillsides to prevent landslides, as well as to repair damage caused by this winter's landslides.
- Additional safety investments include Safe Routes to Schools, pedestrian and bicycle safety projects, border security projects, rural two-lane road projects, and funding for a hazardous corridor and intersections program.
- In order to address rising accident rates on our state highways, $2.04 million is provided for the Washington State Patrol to hire an additional 18 state troopers.
- Expanded coverage by Incident Response teams will be provided for I-5 in Federal Way, SR 18 from I-5 to Auburn, and SR2 east of Everett.

Efficiency

- The voters decided in November that the State Auditor should do performance audits for state and local government – including the Department of Transportation – and authorized $17 million this biennium to pay for them. As a result, this budget saves $908,000 by eliminating the Transportation Performance Audit Board (TPAB), which would duplicate the work of the State Auditor. Ongoing work of TPAB will be assumed by the Transportation Commission.
- Washington State Department of Transportation (WSDOT) is authorized to hire private sector project managers to assist in the delivery of the nation's largest state-level transportation construction program.

Federal Funds Accountability

- The budget appropriates federal funds for priority state and local projects, rather than allowing them to be spent without legislative oversight.
- Regional Transportation Planning Organizations are directed to develop a project selection process that focuses on the highest priority investments. While the specific provisions of the directive were vetoed, the Governor's veto message affirmed the intent of the Legislature, and work will continue on the project selection process.

Mobility

- Regional mobility grants were authorized in last year's budget. This budget appropriates $20 million to projects across the state prioritized through a grant-application process conducted by WSDOT.

Governance

- State Transportation Governance: The Office of Financial Management (OFM) is provided $217,000 to strengthen the Governor's oversight of WSDOT. An additional $150,000 is provided to the Transportation Commission for its oversight, research, and policy duties as expanded in Chapter 334, Laws of 2006 (ESSB 6800). These adjustments continue the changes in state transportation governance that were approved last year when the Governor was given authority to appoint the Secretary of Transportation.
- Regional Transportation Governance: The amount of $750,000 is provided to support the Regional Transportation Commission authorized in Chapter 311, Laws of 2006 (ESHB 2871). The Commission will provide recommendations on transportation governance that will help restore accountability and public confidence in the Central Puget Sound's transportation system. An additional $300,000 of funding is provided to the Regional Transportation Investment District (RTID) to enhance its public outreach and planning for the regional plan expected to be on the ballot in November of 2007.

Incentive for Intelligent Traffic Systems (ITS)

- The new Tacoma Narrows Bridge will open in April 2007, at which time the existing bridge will be partially closed for a major retrofit, to fully re-open in the spring of 2008. For the year that the existing bridge is being retrofitted, the budget provides funding to reduce tolls for all toll payers using the electronic toll system. While the Transportation Commission has the responsibility to set tolls, it is estimated that the initial toll for electronic toll payers will be $1.50 instead of $3.00.

Ferries

Washington's iconic ferry system is the largest in the country, and under new leadership, is improving efficiency, customer-service, on-time performance, and accountability. However, the loss of the motor vehicle excise tax in 2000 continues to ripple through ferry finances, despite fare increases in excess of 50 percent and reductions in service. The worldwide spike in oil prices hit the ferry system especially hard this year.

The 2006 supplemental budget addresses a number of issues that relate to current and future ferry fiscal stability:

- **Oversight** – Appropriates $200,000 for a major finance study that will review the ferry operating and capital programs and make recommendations to the 2007 Legislature to improve the future fiscal stability of the ferry system.
- **Fuel costs** – Appropriates $17.4 million to cover higher-than-anticipated fuel costs for the biennium.
- **Fares** – The ferry system originally proposed 6 percent fare hikes for each of the next four years (through 2009), and then annual inflation increases thereafter. The financial plan developed along with the 2006 budget instead assumes only one additional 6 percent increase and then anticipates future, annual increases of 2.5 percent.
- **Vessels** – The budget endorses the ferry system's proposal to construct four new 144-car vessels. The larger, 144-car vessels in this budget are fiscally sustainable while allowing for better service and less vehicle loading delay, and accommodating growth in the Mukilteo route without having to add a third vessel to the route.

Other Fiscal Legislation

Central Puget Sound Regional Transportation Funding

Chapter 311, Laws of 2006 (ESHB 2871), requires both the RTID and Sound Transit to submit their respective highway improvement and transit service projects to voters within the central Puget Sound region on the 2007 general election ballot. The legislation prohibits the agencies from submitting proposals in 2006 and requires both measures to pass at the polls in 2007 in order for either to go forward. Additionally, the bill makes various changes to the RTID statutes, as requested by the RTID planning committee executive board. Finally, the bill also: 1) establishes an appointed commission to submit proposals to the 2007 Legislature regarding a new

regional transportation governance structure; 2) requires that certain conditions be met before work may begin on the SR 520 bridge replacement and Alaskan Way Viaduct replacement projects; and 3) expands existing Transportation Benefit District authority to King, Pierce, and Snohomish Counties in order to provide more options for voter-approved funding for local transportation projects.

Collective Bargaining by State Ferry Employees
Chapter 164, Laws of 2006 (SHB 3178), modifies collective bargaining between the bargaining representative of ferry workers and the state beginning with bargaining for the 2007-09 biennium, including requiring bargaining before the adoption of the biennial budget, review of the funding request by OFM, and submission of a certified funding request to the Legislature in the Governor's budget.

Uniform Administration of Locally-Imposed Motor Vehicle Excise Taxes (MVET)
Chapter 318, Laws of 2006 (SSB 6247), is the result of last year's Joint Transportation Committee MVET Study. The study's primary objectives were to develop a valuation methodology and a depreciation schedule that more accurately reflect vehicle value. SSB 6247 defines initial vehicle value as 85 percent of Manufacturer's Suggested Retail Price for all taxable use classes other than heavy and medium trucks. Initial value for heavy and medium trucks is defined by last purchase price. Two new market-based, vehicle depreciation schedules are also created. One is for use in determining taxable value for heavy and medium trucks. The other is to be used in determining taxable value for all other taxable vehicle classes. Lastly, SSB 6247 establishes a standard administrative structure for use by local jurisdictions authorized to impose an MVET.

Local Government Passenger-Only Ferry Funding
Chapter 332, Laws of 2006 (ESSB 6787), creates a ferry grant program for county ferry districts and public transportation benefit areas (PTBA), which is funded by the sale of the state-owned, passenger-only fast ferries, Chinook and Snohomish. In order for King County to qualify for a grant for the existing Vashon-to-Seattle passenger-only ferry (POF) route, it must receive approval on its business plan that must honor existing labor agreements, must not contract out operations, and must begin operations July 1, 2007. OFM is directed to develop a backup plan for operating the Vashon-to-Seattle POF route, which does not include state government operations should King County choose not to do so. The Washington State Ferry System is directed to continue the existing Vashon-to-Seattle POF route until it is assumed by another entity. Additionally, a PTBA seeking grant funding for the Seattle-to-Kingston POF route must first receive Governor approval on its business plan. The bill also broadens the county ferry district statutes so that they may be formed in any county and includes all ferry service types.

Modifying Transportation Accounts and Revenue Distributions
The 16-year transportation financial plan enacted in 2005 relied on numerous, ongoing budgetary transfers in support of planned expenditures. Chapter 337, Laws of 2006 (ESSB 6839), codifies those planned transfers as statutory distributions thereby demonstrating the state's long-term commitment to its local funding partners. The bill also caps Capron Act fuel tax refunds to San Juan and Island Counties at the 23 cents per gallon rate and allocates the remainder to the Puget Sound Ferry Operations Account as a way to limit future, annual ferry fare increases to 2.5 percent.

Marine Pilotage Trainee Stipends
Chapter 53, Laws of 2006 (ESSB 6870), clarifies the authority of the Board of Pilotage Commissioners to pay stipends to trainees enrolled in the pilotage training program and increases the appropriation to the Board by $600,000, of which $500,000 is restricted to payment of pilotage trainee stipends.

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C	136	L 06		Sex offender information	SB	6576

C	137	L 06		Sex offender information	SSB	6320
C	138	L 06		Sexual assault victims	SHB	2576
C	139	L 06		Sex offenders	2SSB	6172
C	140	L 06		Recreational vehicles	SB	6364
C	141	L 06		State park fees	SHB	2416
C	142	L 06		Vegetable seeds	SHB	1523
C	143	L 06		Crab pot buoy tag program	HB	2330
C	144	L 06		Commercial geoduck harvest	HB	2386
C	145	L 06		Insuring victims of crimes	SHB	2481
C	146	L 06		Island County boundaries	SHB	2908
C	147	L 06		Agricultural lands	SHB	2917
C	148	L 06		Nontoxic shot	SHB	2958
C	149	L 06		Affordable housing incentive	ESHB	2984
C	150	L 06		Animal identification	SHB	3033
C	151	L 06		Livestock manure	ESHB	3222
C	152	L 06		Invasive Species Council	ESSB	5385
C	153	L 06		Derelict/abandoned vehicles	SSB	6223
C	154	L 06		Disability pension options	SB	6264
C	155	L 06		Dead animal disposal	SB	6371
C	156	L 06		Livestock inspection fees	ESB	6376
C	157	L 06		Milk sales	SSB	6377
C	158	L 06		Bovine handling facilities	SHB	2382
C	159	L 06		Coastal crab fisheries	SSB	6439
C	160	L 06		Milwaukee road trail	SSB	6527
C	161	L 06		Apprenticeship opportunities	2SHB	2789
C	162	L 06		Cosmetology apprenticeship	SHB	2596
C	163	L 06		Compensation for disability	HB	3134
C	164	L 06		State ferry employees	SHB	3178
C	165	L 06		Safe patient handling	ESHB	1672
C	166	L 06		WSU Tri-Cities	SHB	2867
C	167	L 06		General obligation bonds	ESHB	3316
C	168	L 06		Aquifer levels	ESSB	6151
C	169	L 06		Columbia River Basin	E2SSB	6581
C	170	L 06		Domestic water users	SB	6861
C	171	L 06		Energy freedom program	E3SHB	2939
C	172	L 06		Tax relief/farm machinery	SHB	2457
C	173	L 06		Security guard licenses	SSB	6257
C	174	L 06		Equine industry	SSB	6382
C	175	L 06		Academic assessment system	SHB	2414
C	176	L 06		Joint operating agencies	2SHB	1384
C	177	L 06		Tax relief for aerospace	HB	2466
C	178	L 06		Biotechnology product	SHB	2640
C	179	L 06		Access to higher education	SHB	3113
C	180	L 06		Higher education/technology	SHB	2817
C	181	L 06	PV	Local infrastructure	E2SHB	2673
C	182	L 06		Aluminum smelters	HB	2348

C	183	L 06	PV	Electronic product recycling	ESSB 6428
C	184	L 06		Wind turbine facilities	SSB 6141
C	185	L 06		Domestic water pumping systems	SSB 6225
C	186	L 06		Charter licenses	SSB 6401
C	187	L 06		Victim of uninsured motorist	SHB 2415
C	188	L 06		Methamphetamine precursors	HB 2567
C	189	L 06		Retirement for justices	SHB 2691
C	190	L 06		Driver's exam/interpreters	SB 6415
C	191	L 06		Sexual conduct with animal	SSB 6417
C	192	L 06		Court filing fees	SSB 6670
C	193	L 06		Sale of telephone records	ESSB 6776
C	194	L 06		Energy efficiency	SSB 6840
C	195	L 06		Renewable energy	ESHB 1010
C	196	L 06		Electrical transmission	ESHB 1020
C	197	L 06		Audits of tax preferences	EHB 1069
C	198	L 06		Authentication of documents	HB 1471
C	199	L 06		State publications	SHB 2155
C	200	L 06		Fire protection services	SHB 2345
C	201	L 06		Net metering	ESHB 2352
C	202	L 06		Privileged communications	HB 2366
C	203	L 06		Nonprobate assets under will	HB 2379
C	204	L 06		Transfers to Minors Act	HB 2380
C	205	L 06		Energy facilities	SHB 2402
C	206	L 06		Election laws	HB 2477
C	207	L 06		Voting equipment	ESHB 2479
C	208	L 06		Ballot notice requirements	SHB 2695
C	209	L 06		Public disclosure law	HB 2520
C	210	L 06		911 Advisory Committee	SHB 2543
C	211	L 06		Volunteer fire personnel	HB 2606
C	212	L 06		Off-road vehicles	HB 2617
C	213	L 06		Public utility tax credit	HB 2644
C	214	L 06		Additional service credit	HB 2690
C	215	L 06		Ballot measures	SHB 2713
C	216	L 06		Payroll deductions	SHB 2780
C	217	L 06		Distributing communications	SHB 2898
C	218	L 06		Solar hot water	2SHB 2799
C	219	L 06		Driver training schools	HB 2829
C	220	L 06		State Securities Act	HB 2975
C	221	L 06		Foster care health unit	SHB 2985
C	222	L 06		Metropolitan park districts	HB 2991
C	223	L 06		Phosphorus in dish detergent	EHB 2322
C	224	L 06		Electrical trainees	SHB 1841
C	225	L 06		Flavored malt beverage	HB 2562
C	226	L 06		Nonprofit schools/tax exemption	SHB 2804
C	227	L 06		Air pollution control boards	ESSB 6802
C	228	L 06		Dependent persons	ESHB 1080

C	229	L 06		Tuition waiver for veterans	SHB 2233
C	230	L 06		Prevailing wage program	SSB 5236
C	231	L 06		Mercury-containing vaccines	ESSB 5305
C	232	L 06		Optometry	ESSB 5535
C	233	L 06		Hepatitis C treatments	SSB 5838
C	234	L 06		False college degrees	ESHB 2507
C	235	L 06		Health information/law enforcement	ESSB 6106
C	236	L 06		Health profession work force	2SSB 6193
C	237	L 06		Multicultural education/health	ESB 6194
C	238	L 06		State Board of Health	SSB 6196
C	239	L 06		Health Disparities Council	2SSB 6197
C	240	L 06		Campaign finance disclosure	SSB 6323
C	241	L 06		Nursing facility bed tax	SB 6368
C	242	L 06		Long-term care settings	ESSB 6391
C	243	L 06		Sick leave/part-time faculty	ESSB 6396
C	244	L 06		Minimum monthly benefit	SB 6453
C	245	L 06		Syrup taxes	SSB 6533
C	246	L 06		Tobacco master settlement	SB 6541
C	247	L 06		Motion picture industry	2SSB 6558
C	248	L 06		Adoption	ESSB 6635
C	249	L 06		Adult family home providers	SB 6637
C	250	L 06		Sellers of travel	SB 6731
C	251	L 06		Services to children	ESB 6741
C	252	L 06		Veteran homeownership	SHB 2471
C	253	L 06		National Guard	SHB 2497
C	254	L 06		Workers' compensation applications	SHB 2537
C	255	L 06		Small employer health insurance	E2SHB 2572
C	256	L 06		Excise tax relief	HB 2671
C	257	L 06		TERS service credit	ESHB 2680
C	258	L 06		Nursing facility payment	EHB 2716
C	259	L 06		Domestic violence information	ESHB 2848
C	260	L 06		Assisted living facility	ESHB 2925
C	261	L 06		Schools/public works project	SHB 3024
C	262	L 06		Nonprofit housing	2SHB 3070
C	263	L 06		State Board of Education	E2SHB 3098
C	264	L 06	PV	Health care services	ESHB 3079
C	265	L 06		Department of Early Learning	2SHB 2964
C	266	L 06		Foster care support services	2SHB 2002
C	267	L 06		Committee on Offender Programs	SSB 6308
C	268	L 06		Failure to secure a load	HB 2612
C	269	L 06		Children with disabilities	SHB 1107
C	270	L 06		Citations and infractions	SHB 1650
C	271	L 06		Identity theft	HB 1966
C	272	L 06		Municipal business and occupation taxation	SHB 2033
C	273	L 06		Public Works Board projects	HB 2544
C	274	L 06		Service contracts	SHB 2553

C	275	L 06		Property tax deferral program	SHB	2569
C	276	L 06		Pollution liability insurance agency	SHB	2678
C	277	L 06		Organized retail theft	HB	2704
C	278	L 06		Insurance premiums tax	SHB	2880
C	279	L 06		Reclaimed water	ESHB	2884
C	280	L 06		Charter counties	HB	3019
C	281	L 06		Personal property tax exemption	SHB	3164
C	282	L 06		Conditional release	HB	3205
C	283	L 06		Chattel liens	ESSB	5204
C	284	L 06	PV	Insurance fraud program	SSB	6234
C	285	L 06		Comprehensive plans	ESSB	6427
C	286	L 06		Distraint of personal property	SSB	6441
C	287	L 06		Animal fighting	SB	6568
C	288	L 06		Retail installment contracts	SSB	6570
C	289	L 06		Motor vehicle dealers	SSB	6571
C	290	L 06		Internet gambling	SSB	6613
C	291	L 06		Vehicle reports of sale	SSB	6676
C	292	L 06		Driver's licenses	SB	6680
C	293	L 06		Criminal background checks	SSB	6717
C	294	L 06		Criminal history record information	SB	6720
C	295	L 06		Domestic violence	SSB	6806
C	296	L 06		Mobile/manufactured homes	SSB	6851
C	297	L 06		Vehicle gross weight	SHB	2987
C	298	L 06		Public facilities districts	ESSB	6230
C	299	L 06		Health savings account	EHB	1383
C	300	L 06		Timber tax incentives	SSB	6874
C	301	L 06		Professional employer organizations	SSB	6671
C	302	L 06		Distribution of beer and wine	2SSB	6823
C	303	L 06		Threatening individuals	E2SSB	6630
C	304	L 06		Investing in youth program	4SHB	1483
C	305	L 06		Property tax exemption/nonprofits	SHB	1510
C	306	L 06		Vehicle equipment standards	HB	2465
C	307	L 06	PV	Health technology assessment	E2SHB	2575
C	308	L 06		Community and technical college employee	2SHB	2583
C	309	L 06		Public safety employees' retirement	ESHB	2685
C	310	L 06		Convention/tourism promotion	SHB	2778
C	311	L 06		Regional transportation governance	ESHB	2871
C	312	L 06		Real estate excise tax	HB	2879
C	313	L 06	PV	Sentence Review Board	EHB	3261
C	314	L 06		Economic development grants	ESB	5330
C	315	L 06		Public disclosure violations	ESB	6152
C	316	L 06		Oil spill prevention	ESSB	6244
C	317	L 06		Lieutenant Governor	SSB	6246
C	318	L 06		Local motor vehicle tax	SSB	6247
C	319	L 06		Nonprofits/property tax	SB	6280
C	320	L 06		Voter registration	SSB	6362

C	321	L 06		Apprenticeship utilization	E2SSB	6480
C	322	L 06		Public hospital districts	SB	6504
C	323	L 06		Truck stop air quality	SSB	6512
C	324	L 06		Roadside tire chain business	SSB	6528
C	325	L 06		Limited liability companies	SB	6531
C	326	L 06		Vehicle license plates	SB	6545
C	327	L 06		Commercial driver's licenses	SSB	6552
C	328	L 06	PV	Special purpose districts	SSB	6555
C	329	L 06		Commute trip reduction	ESSB	6566
C	330	L 06		Beer Commission	ESB	6661
C	331	L 06		Hazards to motorcycles	SB	6762
C	332	L 06		Passenger ferry service	ESSB	6787
C	333	L 06		Persons with mental disorder	2SSB	6793
C	334	L 06		Transportation governance	ESSB	6800
C	335	L 06		Cemetery districts	SB	6816
C	336	L 06		Public transit services	SB	6826
C	337	L 06		Transportation accounts	ESSB	6839
C	338	L 06		Renewable fuel	ESSB	6508
C	339	L 06		Controlled substances	E2SSB	6239
C	340	L 06		State geological survey	SHB	2384
C	341	L 06		Surface mining	E2SSB	6175
C	342	L 06		Forest health study	ESB	5179
C	343	L 06		Veterans innovations program	2SHB	2754
C	344	L 06		Election dates and deadlines	ESB	6236
C	345	L 06		LEOFFRS killed at work	SB	6723
C	346	L 06		Utilities and Transportation Committee	SHB	2426
C	347	L 06		Telecommunications companies	SSB	6473
C	348	L 06		Campaign contribution limits	3SHB	1226
C	349	L 06	PV	Affordable housing	E2SHB	2418
C	350	L 06	PV	LEOFFRS plan 1	SHB	2688
C	351	L 06		LEOFFRS death benefit	SHB	2933
C	352	L 06		High school assessments	SSB	6618
C	353	L 06	PV	Foster care critical support	2SHB	3115
C	354	L 06	PV	Excise tax on food products	EHB	3159
C	355	L 06		Criminal justice officials	SSB	5654
C	356	L 06		Sick leave pools	SB	6059
C	357	L 06		Parking for legally blind	SSB	6287
C	358	L 06		Weighing and measuring devices	SSB	6365
C	359	L 06		Processing liquor licenses	SSB	6540
C	360	L 06		Trusts and estates	SSB	6597
C	361	L 06		Local sales and use tax	SSB	6686
C	362	L 06		Ferries/liquor licenses	SSB	6791
C	363	L 06	PV	Electronic and web-based bids	HB	1439
C	364	L 06		Recreational vehicle shows	ESHB	2056
C	365	L 06		Retirement contribution rate	HB	2681
C	366	L 06		Hood Canal account	SHB	3282

C	367	L 06		Prostate cancer screening	SSB	6188
C	368	L 06		Drainage and diking works	SB	6248
C	369	L 06		Farm plans	SSB	6617
C	370	L 06	PV	Supplemental transportation budget	SSB	6241
C	371	L 06	PV	Supplemental capital budget	ESSB	6384
C	372	L 06	PV	Supplemental operating budget	ESSB	6386

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Rep. John R. Lovick (D-2)

District 45
Sen. Bill Finkbeiner (R)
Rep. Toby Nixon (R-1)
Rep. Larry Springer (D-2)

District 46
Sen. Ken Jacobsen (D)
Rep. Jim L. McIntire (D-1)
Rep. Phyllis Gutierrez Kenney (D-2)

District 47
Sen. Stephen L. Johnson (R)
Rep. Geoff Simpson (D-1)
Rep. Pat Sullivan (D-2)

District 48
Sen. Luke E. Esser (R)
Rep. Ross Hunter (D-1)
Rep. Rodney Tom (R-2)

District 49
Sen. Craig Pridemore (D)
Rep. Bill Fromhold (D-1)
Rep. Jim Moeller (D-2)

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Ken Jacobsen
Bob Morton
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Skip Preist
Mary Helen Roberts
Jay Rodne
Helen Sommers

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