



Skagit County

Legislative Report

April 24, 2023

SESSION CUTOFF CALENDAR

April 23, 2023

Session adjourned - Sine Die

Overview

The Legislature adjourned on the 105th day of the legislative session on Sunday, April 23. In the final week of the legislative session, the Legislature adopted biennial operating, capital, and transportation budgets and sent policy bills to the Governor's desk for final signature.

With the failure of [E2SSB 5536](#) addressing the State v. Blake decision and controlled substance possession there was considerable conversation on Sunday evening about a possible special session. The current law related to possession of controlled substances expires on July 1 so if the Legislature wants to avoid a gap in the law, a special session would need to conclude before June 30. Both [Governor Inslee](#) and [Senate Democratic](#) leaders held press conferences on Sunday evening after the Legislature adjourned sine die, and both talked about the possibility of special session.

Over the next 20 days, the Governor will continue to take final action on bills. Once a bill passes the legislature, it is delivered to the Governor to be signed into law, vetoed, or partially vetoed (he has the authority to remove entire sections of a bill, but not specific sentences). Unless indicated otherwise in the legislation, bills will be effective law beginning on July 23. We will provide an end-of-session report once the Governor has concluded final action.

Budget Summaries

Capital: The 2023-25 biennial [Capital budget](#) authorizes total expenditures of \$9 billion. Of this amount, \$4.7 billion is financed with general obligation bonds. Additionally, \$95.4 million in bond capacity is reserved for a supplemental capital budget. The Capital

budget also reappropriates \$7.6 billion for projects that were previously authorized but not yet completed.

Operating: The [Operating budget](#) funds all state agency operations, including K-12 education, the higher education system, social services, and more. The 2023-25 biennial Operating budget appropriates \$69.8 billion, a net increase of \$2.4 billion. An ending fund balance of \$1.4 billion in general funds is projected for the 2023-25 biennium, and total reserves are projected at \$3.6 billion.

Transportation: The [Transportation budget](#) funds capital facilities investments as well as operating programs for the transportation system in the state. The budget released this week includes total appropriations of approximately \$13.5 billion. Included in the appropriations are various carbon-reducing programs and initiatives funded through the Climate Commitment Act, such as the Pedestrian and Bicycle Safety and Safe Routes to Schools grant programs, as well as investments in transit and transportation electrification.

Funding Requests

The House and Senate budget writers have been working over the last several weeks to finalize the 2023-25 Biennial Capital, Operating, and Transportation budgets. Compromise budgets were adopted by the House and Senate by Sine Die on Sunday, April 23. Here is the final status of our priority projects:

- **Skagit County Crisis Stabilization Center (SCCSC)** - The final Capital budget provides \$12.7 million for the project.
- **Skagit County Culvert Package** – The final Capital budget provides \$1 million additional funding and re-appropriates the \$1 million provided in the 21-23 budget.
- **Voluntary Stewardship Program Funding** – The final Capital budget provides \$1 million for Skagit County VSP.

Requests for Support & Funding Initiatives

Support Salmon Recovery Efforts Utilizing a Collaborative Approach

As previously reported, both chambers of the Legislature included appropriations related to salmon recovery and habitat restoration in their Capital budget proposals, indicating a strong likelihood that those items would be funded in the finalized budget. Those programs were indeed included in the Capital budget passed by the Legislature in the waning days of the session.

- \$120 million for the Salmon Recovery Funding Board
- \$120 million for Washington Wildlife and Recreation Program grants for habitat conservation, outdoor recreation, riparian protection, and other similar projects
- \$73.5 million for Puget Sound estuary and salmon restoration projects
- \$48.4 million for the Brian Abbott Fish Barrier Removal Board

- \$25 million for the State Conservation Commission to develop and implement a voluntary riparian grant program to fund the protection and restoration of critical riparian management zones and \$15 million for technical assistance to applicants.
- \$10 million for the Forest Riparian Easement Program

The Operating budget also provides \$42.4 million in general funds and \$17.6 million in other funds for recovery of threatened and endangered species, including activities related to salmon recovery.

Additional Legislative Issues

Support Public Safety and Reduce Court Backlog

The Capital budget appropriates \$2.76 million for the Criminal Justice Training Commission's regional training facilities, including \$1.4 million to expand the Spokane Academy and \$1 million for the Southwest Regional Training Academy. Additionally, the Operating budget provides \$15.8 million in general funds and \$3.8 million in other funds to provide three additional Basic Law Enforcement Academy classes at the main Burien campus each fiscal year and three new regional training academies (one each in Pasco, Skagit County, and Clark County) to support six additional BLEA classes per year. Another \$20.6 million is appropriated to support new and existing therapeutic courts in courts of limited jurisdiction.

Vehicular pursuits: [ESB 5352](#) sponsored by Senator John Lovick (D- 44th LD) has now been approved by both chambers of the Legislature in its amended form. The bill lowers the evidentiary threshold for engaging in a vehicular pursuit to allow an officer to conduct a pursuit if there is reasonable suspicion that a person in the vehicle has, or is, committing a violent offense, a sex offense, a vehicular assault offense, an escape offense, a driving under the influence offense, or a domestic violence assault in the first-, second-, third-, or fourth-degree offense. The pursuit must be necessary for identifying or apprehending the individual and the fleeing person must pose a serious risk of harm to others. On April 20, the bill was delivered to the Governor to be signed into law.

State v. Blake decision/controlled substance possession: [E2SSB 5536](#) sponsored by Senator June Robinson (D- 38th LD) was defeated in the House by a vote of 43-55 on the final evening of the legislative session. The chamber debated the recommended policy from the conference committee appointed to reconcile the differences between the Senate and House versions of the bill. The two versions diverged in that the Senate's policy classified possession of controlled substances as a gross misdemeanor, while the House version classified possession of controlled substances as a misdemeanor and added drug use in a public place as a misdemeanor as well. The Senate did not concur with the House amendments, so the bill went to conference. The conference committee's recommendation went back to classifying possession as a gross misdemeanor as passed by the Senate, with the addition of classifying use in a public place as a gross misdemeanor as passed by the House.

There was robust debate on the House floor and legislators expressed a variety of perspectives. The conference committee's recommendation did not garner full support from Democrats, some of whom expressed concern about the disproportionate impact of the War on Drugs on communities of color and potential harm to individuals who serve jail time due to addiction. Still, others stated that, while the bill is not perfect, it would provide consistency throughout the state. Concerns were expressed about cities enacting their own ordinances once the current law expires at the end of June, resulting in a patchwork of policies. Other reasons for supporting the bill included the negative impacts to downtowns from public drug use and the need to take a step forward in treating substance use disorders as a public health crisis.

Republicans voted against the bill for diverse reasons, including a lack of available substance use disorder treatment in their districts, that the bill did not go far enough, and that allowing cities to enact their own ordinances might be preferable to the conference committee's recommendation.

Several stakeholder organizations weighed in with legislators during the final days of the legislative session as it became clear that a policy addressing controlled substance possession was hanging in the balance. Those stating support for the bill included the Fraternal Order of Police, Washington Retail Association, and Municipal and District Court Judges. In opposition were the ACLU of Washington, Washington Association of Sheriffs and Police Chiefs, and the Washington Association of Prosecuting Attorneys.

Following the Legislature's adjournment on Sunday evening, the Governor held a media availability and speaks on the failure to pass Legislation on the *Blake* decision. Click [here](#) to watch it on TVW. The Senate Democrat Leadership also held a media availability. Click [here](#) to watch it on TVW. Governor Inslee shared his desire for a special session to occur prior to July 1 in order to pass a statewide solution on *Blake*. The Democrat Leadership panel shared their disappointment in the lack of House Republican support on the proposal and did not comment on whether a special session would be their preferred approach.

Addressing the forensic pathologist shortage: [SSB 5523](#) sponsored by Senator Manka Dhingra (D- 45th LD) creates a loan repayment program for board-certified forensic pathologists who work in identified shortage areas of the state for four years. It requires the Washington Association of Coroners and Medical Examiners to conduct a study of the critical shortage of board-certified forensic pathologists and submit a report to the Legislature in 2024. The bill also allows coroners to receive up to 40 percent of the cost of transportation of remains between facilities for autopsy services from the Death Investigations Account. It has now been approved by both chambers of the Legislature and will go to the Governor to be signed into law.

Behavioral Health

The Capital budget invests in behavioral health facility needs throughout the state. Highlights include:

- \$77.9 million for competitive grants to expand community-based behavioral health services.
- \$133.1 million for community-based projects for behavioral health facilities, such as crisis diversion, secure detox, and adolescent services.
- \$13.4 million for the Rising Strong project, providing family-centered drug treatment and supportive transitional housing for a minimum of 24 households in Western Washington.
- \$613 million for construction of a 350-bed forensic hospital at Western State Hospital.
- \$20.6 million for construction of a 48-bed civil commitment facility in Clark County.
- \$21.1 million to fund the expansion of 136 beds at Maple Lane.
- \$5 million for the Department of Social and Health Services to create community capacity to serve clients in need of behavioral health treatment.

Additionally, there are numerous appropriations contained in the Operating budget to build capacity in the behavioral health system. Notable items include:

- *Trueblood* and Forensic Mental Health: \$99.7 million in general funds and \$6.9 million in federal funds. This funding is provided for the Department of Social and Health Services to continue implementation of the *Trueblood* settlement, including forensic navigators, outpatient competency restoration, housing, crisis, diversion, and other community support services.
- Maple Lane Campus: \$65.1 million in general funds and \$10.6 million in federal funds for operation of facilities for civil conversion patients and patients found not guilty by reason of insanity.
- Vancouver Campus: \$47.4 million for operations of the 48-bed Residential Treatment Facility campus in Vancouver serving civil conversion patients.
- Staffing at Western and Eastern State Hospitals: \$13.8 million
- Western State Hospital Civil Ward: \$15.7 million to facilitate increasing the civil capacity at Western State to 287 beds.
- Behavioral Health Provider Rate Increases: \$172 million in general funds and \$212 million in federal funds to increase rates paid through the Medicaid Managed Care Organizations and Behavioral Health Administrative Service Organizations by 15 percent.
- Crisis and Residential Treatment Services: \$33.1 million in general funds and \$84 million in other funds to support crisis and residential treatment services, including new crisis stabilization facilities and expanding the 988 behavioral health crisis response system.
- Community Civil Long-term Involuntary Treatment Beds: \$8.2 million in general funds and \$37.8 million in federal funds
- Opioid Response and Substance Use Disorder Services: \$6.8 million in general funds and \$126.6 million in American Rescue Plan Act (ARPA) and opioid settlement funds to respond to the opioid epidemic and expand substance use disorder treatment and pretrial diversion programs for implementing Senate Bill 5536, concerning possession of controlled substances.

- Expansion of community behavioral health services: \$16.2 million in general funds and \$25.3 million in federal funds
- Intensive Youth Services: \$13.8 million in general funds and \$10.6 million in federal funds

Trueblood settlement- Competency evaluations and restoration services to persons suffering from behavioral health disorders: [E2SSB 5440](#) sponsored by Senator Manka Dhingra (D- 45th LD), establishes diversion and behavioral health treatment pathways to attempt to reduce caseload for forensic cases needing restoration in a state-owned behavioral health hospital. The legislation has undergone significant changes through both chambers of the Legislature. As passed in the House, the bill requires courts to determine if there is genuine doubt as to competency before ordering a competency evaluation and requires jails to allow access for clinical intervention specialists to provide direct services for defendants waiting for competency restoration services. It requires courts to dismiss non-felony charges and refer the defendant for services recommended in a diversion program recommend by a forensic navigator if the court finds the defendant is amenable. The House adopted an amendment upon passage that removed a provision approved by the policy committee that limited the non-felony offenses that may be referred for competency evaluations to any gross misdemeanor with a domestic violence designation or sexual assault allegation, Driving Under the Influence, or Physical Control of a Vehicle.

The Senate did not concur with the House amendments and requested that the chamber recede. On April 21, the House receded from the amendments and returned the bill to second reading for amendment on the floor. A new amendment was approved that establishes procedures for defendants charged with certain class C felonies, including requiring the court to first consider alternatives to inpatient competency restoration, and to dismiss the charges if the forensic navigator finds an appropriate diversion program that will accept the defendant. This provision does not apply to defendants charged with Assault 3, felony Physical Control of a Vehicle or Hit and Run resulting in injury, Hate Crime Offense, or class C felonies with domestic violence or sex offense. It further requires a forensic navigator be appointed for defendants charged with certain class C felonies, in addition to those charged with a non-felony, who have had two or more cases dismissed due to a finding of incompetency in the last two years to determine the person's willingness to engage with diversion. Courts must dismiss charges against such defendants when they have been accepted into a diversion program. For defendants charged with a non-felony that is a serious offense, it requires courts to first consider alternatives to inpatient competency restoration and dismiss the charges if the parties agree to an appropriate diversion program. If the parties cannot agree on an appropriate diversion program, the court will dismiss the charges unless the prosecutor objects. On April 21, the House passed the amended bill 79-18. The Senate has concurred with the House amendments by a vote of 43-6. The bill is now on the path to be signed into law by the Governor.

23-hour crisis relief centers: [2SSB 5120](#) sponsored by Senator Manka Dhingra (D- 45th LD) requires the Department of Health to license 23-hour crisis relief centers,

facilities that are open 24 hours per day, seven days a week, offering behavioral health to adults for no more than 23 hours and 59 minutes at a time. The centers will accept walk-ins and drop-offs from first responders and individuals referred through the 988 system and have a no-refusal policy for individuals dropped off by law enforcement. After passage in the Senate, the House adopted an amended version that would have established a pilot program for no more than five crisis relief centers to begin in 2024. The Senate did not accept the House changes and requested that the House recede from its amendments. On April 20, the House unanimously agreed to recede. The bill is now on the path to the Governor to be signed into law.

Housing

The Legislature ultimately did not enact Governor Inslee's proposal to raise \$4 billion in bond funds (which would have required voter approval), or pass legislation that would have provided additional revenue-generating tools for the state and local governments to fund affordable housing, the Legislature did make significant investments in affordable housing and sheltering through the Capital and Operating budgets. Notable items include:

- \$400 million for the Housing Trust Fund for the construction and renovation of affordable housing units to serve low-income and special needs populations, including individuals with chronic mental illness, individuals with developmental disabilities, and individuals experiencing homelessness or are in need of permanent supportive housing.
- \$60 million for grants to local governments and public utility districts to assist in the cost of utility improvements or connections to new affordable housing projects.
- \$50 million for housing developers and public entities to support transit-oriented housing.
- \$40 million for the Housing Finance Commission's Land Acquisition Program to help developers purchase land for affordable housing projects.
- \$14.5 million for youth shelter and housing projects.
- \$5 million for the Landlord Mitigation Account.
- \$83.2 million from the Inflation Reduction Act to implement Home Efficiency Rebates.
- \$35 million for weatherization and home health improvements for low-income households.
- \$6 million for the Low-Income Rural Rehabilitation Grant Program.
- Emergency Housing and Shelter: \$55.5 million in general funds and \$55.5 million in CARES Act funds for grants to support emergency housing, shelter capacity, and associated support services.
- Homeless Services Contracts Increase: \$45.6 million
- Document Recording Fee Support: \$66 million in one-time funding to support state and local housing and homelessness programs in response to lower than anticipated revenues from document recording fees.
- Encampment Response and Outreach: \$60 million in one-time funding for grants to local governments and non-profits to provide housing and other services to

individuals residing in state rights-of-way and other encampments on public lands.

- Housing and Essential Needs (HEN): \$26.5 million
- Permanent Supportive Housing: \$25 million for operations and maintenance of permanent supportive housing projects funded through the Housing Trust Fund.
- Children and Youth Housing Supports: \$22 million
- Covenant Homeownership Program (HB 1474): \$150 million

Flexibility on affordable housing and mental health funding: [SSB 5604](#) sponsored by Senator June Robinson (D- 38th LD) allows all jurisdictions to use revenue from the affordable and supportive housing sales tax for rental assistance, and allows counties to use chemical dependency and mental health services tax revenue for modifications to existing facilities to address health and safety needs. Governor Inslee signed the bill into law on April 14.

Increasing supply and affordability of condominiums: [E2SSB 5258](#) sponsored by Senator Sharon Shewmake (D- 42nd LD) contains several provisions aimed at boosting construction and homeownership of condominiums and townhomes. It modifies the requirements for claims regarding construction defects and makes the qualified warranty program available to developers subject to the Uniform Common Interest Ownership Act. It exempts certain sales of condominiums and townhomes from the real estate excise tax (REET) and creates the Down Payment Assistance Account for buyers purchasing a condominium or townhome. After passage in the Senate, the House Appropriations Committee amended and approved the bill. The amendment removed the REET exemption for sales of condominiums and townhomes that are constructed in buildings qualifying for the multi-family property tax exemption. Both chambers of the Legislature worked quickly to get this bill to the finish line this week, with unanimous passage in the House followed by unanimous Senate concurrence on the House amendments. The bill is now on the path to be signed into law by the Governor.

Land Use, Environment & Forest Management

Consolidating local permit review processes: [2SSB 5290](#) sponsored by Sen. Mark Mullet (D- 5th LD), requested by the Governor's Office, establishes a consolidated permit review program for local governments to issue final decisions for residential permit applications within specified time frames. Local governments are required to exempt project permits for interior alterations from site plan review under certain conditions. The bill requires local governments to refund a proportion of the permit fees if they have not issued a final decision by the established time period. The requirements take effect after January 1, 2025. A grant program is created in the bill to support local governments' transition from paper to digital permit filing systems. On April 20, the bill was delivered to the Governor to be signed into law.

SEPA exemption for housing: [2SSB 5412](#) sponsored by Senator Jesse Salomon (D- 32nd LD), as passed in its chamber of origin, categorically exempts projects from the State Environmental Policy Act (SEPA) that include one or more residential housing

units within the incorporated areas in an urban growth area or middle housing within the unincorporated areas in an urban growth area if the projects do not have transportation system safety or operational deficiencies. Counties and cities planning under the Growth Management Act may apply only clear and objective development regulations governing the exterior design of certain new developments. The bill was amended in the House after passage by the Senate, and the Senate refused to concur with the amendments adopted by the House. On April 17, the House returned the bill to second reading for the purpose of further amendment. The chamber approved a modified version of the bill that amended the SEPA exemption for residential housing within an urban growth area to require an environmental analysis that meets certain criteria, rather than requiring the local government's comprehensive plan to be previously subjected to environmental analysis under SEPA. The amended version requires local governments to provide notice to affected tribes and other units of government before finalizing an environmental analysis. On April 22, the Senate concurred in the House amendments and the bill now makes its way to the Governor to be signed into law.

Department of Natural Resources land transactions, revenue distributions, and land transfer program: [SHB 1460](#) sponsored by Representative David Hackney (D-11th LD), by request of the Department of Natural Resources (DNR), has now passed in both chambers of the Legislature in its amended form. The bill authorizes DNR to create and manage a trust land transfer (TLT) program to transfer economically under-performing state lands to other purposes, and to acquire replacement property to generate sustainable revenue to trust beneficiaries. It eliminates a restriction that DNR may not hold more than 1,500 acres in a land bank. DNR can only submit properties to the Board of Natural Resources if at least 50 percent of previous appropriations have been used to purchase replacement trust lands. The list of TLT properties submitted for transfer shall not exceed \$30 million in total property value. TLTs may only occur for the full fair market value of the property. The bill requires that federally recognized tribes be consulted on the TLT program and exchange of state forestlands. On April 19, the bill was delivered to the Governor to be signed into law.

Finance

Rural public facilities sales and use tax: [SHB 1267](#) sponsored by Representative Steve Tharinger (D- 24th LD) renews the 0.09% rural county credit against the state sales and use tax for public facilities serving economic development purposes until the end of 2054. It requires the State Auditor to provide a publicly accessible report on its website containing rural county project and expenditure information and the total amount of revenue collected under the sales and use tax. The House passed the bill unanimously. In the Senate, the bill was amended to require counties to identify in detail public facility projects and staff positions funded by the sales and use tax and directs the State Auditor to develop a standardized expenditure report. On April 19, the Senate passed the bill 42-7, with a bipartisan mix of votes on both sides of the tally. On April 20, the House unanimously concurred in the Senate amendments. The bill will now make its way to the Governor to be signed into law.

Real estate excise tax for affordable housing: [HB 1628](#) sponsored by Representative Frank Chopp (D- 43rd LD) modifies the state real estate excise tax (REET) and allows a county or city to impose an additional 0.25 percent REET for the construction of affordable housing. While the bill was approved early in the legislative session by the House policy committee, it lost momentum in the fiscal committee. A substitute bill was introduced this week that increases the ceiling for the Tier I (1.1 percent) state REET tax from \$525,000 to \$750,000. As a result, Tier 2 (1.28 percent) would be \$750,000 to \$1.525 million. It also increases the state REET for Tier 4 properties with a selling price over \$3.025 million from 3 to 3.5 percent, except for commercial property. The proposed substitute removed the creation of Tier 5 (4 percent) for selling prices over \$5 million. Real estate industry stakeholders have expressed significant opposition to the bill, while its main proponents, local governments and affordable housing advocates, maintain that additional revenue tools are necessary to bring more housing options to market. The bill did not move quickly enough after approval by the House committee to make it to the finish line this session.

Incentivizing annexation of unincorporated urban growth areas: [2SHB 1425](#) sponsored by Representative April Berg (D- 44th LD) re-authorizes the credit against the state sales tax as an incentive for cities to annex unincorporated areas within their Urban Growth Areas. The start date is July 1, 2023, and the new expiration date would be January 1, 2029. On April 19, the Senate passed the bill unanimously. The bill now makes its way to the Governor to be signed into law.