

From: Holly Cocci

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To: Bonnie Onyon; Charlie Hawkins; Eric Davidson; Garth Baldwin; Mary Lou Steward; Richard May

CC: Michael Jones; Samuel Crawford; Briahna Murray

Subject: End of Session Legislative Report

Attachments: End of Session Report - Blaine.docx

Good Afternoon –

Please see the attached 2021 end of session legislative report. Briahna and I look forward to presenting at the June 14th council meeting to share the highlights of this session and the City's successes. If you have any questions in the meantime, please feel free to reach out to us.

Thank you,

Holly

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**City of Blaine
State Government Relations Report
2021 Legislative Session**

Dear Mayor Onyon, Councilmembers and City Staff,

It was our pleasure to advocate for the City of Blaine during the 2021 legislative session, which will go down in history as unlike any other. The Legislature met in a virtual format for the entire session, keeping the capitol campus closed to everyone except a handful of staff and legislative leaders. This made the 105-day “long” session especially unique, as video screens, text messages, phone calls and emails replaced face-to-face meetings.

Despite these challenges, we are pleased that Blaine was successful in advancing its legislative priorities, including funding for the Bell Road Intersection Project and the Downtown Revitalization Project. These successes would not have been possible without an active and supportive legislative delegation: Senator Ericksen, Representative Shewmake and Representative Rule. We encourage you to express gratitude to the delegation.

Now that session is officially over, attention has turned towards implementing the actions of the Legislature and preparing for the 2022 elections. Members to the State Redistricting Commission have been appointed by the Legislature and will be submitting their proposed redistricting plan to the Legislature in 2022. The Legislature will consider and adopt a redistricting plan for use in the 2022 election.

During the interim months, it will be important for the City to continue to stay engaged in the transportation revenue package discussion to secure funding for Marine Drive and for an authorization to impose an additional cent on fuel tax. The City laid the groundwork on both fronts; therefore, it is in the City’s best interest to build upon the momentum from the work that has been done this year.

The 2022 legislative session will be the second of the two-year legislative biennium. Democrats will retain control of the House, Senate, and Governor’s mansion, and the legislature will consider making adjustments to the biennial budgets. In addition to new policy proposals, any bills that were not adopted by the legislature in 2021 can be considered again.

The ever-changing political climate requires adaptive and consistent advocacy. This year marked the City of Blaine and GTHGA’s third session working together and it continues to be a productive and successful partnership. We look forward to working with the City throughout the interim months to continue advancing Blaine’s priorities and preparing for the 2022 legislative session.

Thank you,

Briahna Murray & Holly Cocci

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Overview of the 2020 Legislative Session

The 2021 Legislature convened for a 105-day session that was conducted almost entirely virtually. Due to the virtual format, legislators were encouraged to limit the number of bills introduced. Legislators considered nearly 1,075 bills this session and approved 334. By comparison, this is about half as many bills introduced, and about 100 fewer to get approved than what would occur in an average year.

As the first year of the two-year legislative biennium, the Legislature was tasked with developing biennial operating, capital, and transportation budgets. This task became even more monumental when the federal government approved the American Rescue Plan Act, providing the state with \$4.25 billion in federal assistance that must be spent by December 31, 2024. As the majority party, Democrats set the policy agenda for the 2021 session, which was focused on four main areas: 1) responding to the COVID-19 pandemic; 2) address economic recovery; 3) address racial equity; and 4) address climate change. Significant legislation passed on all four fronts. Significant policy changes included approving a capital gains tax, a working family tax credit, a low carbon fuel standard, a cap-and-trade system, a slate of a dozen police reform bills, a new approach to prosecuting and treating controlled substance addiction, elimination of the “three strikes you’re out” sentencing policy, a new 9-8-8 mental health system... and more.

2021-23 Operating Budget: The state’s operating budget funds all state agency operations, including K-12, higher education, human service programs, and more. Leading up to the beginning of the legislative session, there were concerns that the operating budget would face a significant revenue shortfall. However, the March economic revenue forecast reflected a rebound from the pandemic. This, combined with revenue from the federal government, provided the state with revenue to have one of the largest increases in state budgeting in recent history. The 2021-23 operating budget appropriates \$59.2 billion – a \$3.2 billion increase over last biennium. The budget also assumes \$415 million in capital gains revenue (Senate Bill 5096). \$1 billion in federal funds are transferred to the Washington Rescue Plan Transition Account to be later appropriated to respond to COVID-19 impacts, and \$1.8 billion is transferred from the Budget Stabilization Account to the state general fund. The four-year budget outlook projects that the state will end the 2023-2025 biennium with over \$1 billion in reserves.

Major expenditures include:

- \$800 million to reduce unfunded liability in the Teachers Retirement System
- \$517 million in state and federal funds to increase behavioral health services, including provider rate increases, community supports, and crisis teams
- \$298 million in state and federal funds to fund the Fair Start Act, which includes a variety of early learning and childcare initiatives
- \$292 million for housing, rental, and related services
- \$261 million to implement the working families tax credit
- \$133 million for housing and homelessness through revenue raised by HB 1277 (filing fee for eviction prevention and housing stability services)
- \$147 million in state funds for the Foundational Public Health initiative
- \$125 million in state funds for wildfire preparedness, prevention, and protection activity

Despite fears of cuts to integral local government programs, the legislature passed a strong operating budget retaining shared revenues. All of the typical sources of local government revenue (such as liquor revenue) are fully funded. In addition, the legislature does not transfer resources out of the Public Works Assistance Account to the Education Legacy Account.

While the final budget does not provide the same level of funding to the city and county assistance accounts for the cost of new requirements since 2020, it does provide \$20 million for cities and \$30 million for counties. The budget specifically references the cost of new criminal justice requirements.

Additionally, the budget includes the following appropriations:

- \$3 million for the Criminal Justice Training Commission for five additional BLEA classes in 2022 and 2023. Three classes each year must be held in Spokane. A total of 15 BLEA classes per year will be held.
- \$6 million for a grant program to reimburse local governments for eligible costs of providing emergency non-congregate sheltering during the COVID-19 public health emergency.
- \$450,000 to the Department of Commerce to convene a workgroup to make recommendations on reforms to the GMA, SEPA, and other elements of the statewide growth policy framework. The workgroup is required to build on findings from previous efforts, including the UW-led GMA workgroup funded in the 2020 legislative session, the Ruckelshaus Center “Roadmap to Washington’s Future” report published in 2019, and the state Environmental Justice Task Force report issued in 2020. Counties and cities are provided representation in the workgroup. The workgroup must emphasize and consider the experiences of marginalized individuals and communities. Recommendations are due prior to the 2022 legislative session.

2021-23 Capital Budget: The biennial capital budget funds bricks and mortar construction, excluding transportation. The Legislature allocates \$6.3 billion for the 2021-23 biennial capital budget, in which \$3.9 billion is from general obligation funds, making it the largest capital budget in recent history. The remaining \$2.4 billion consists of \$589 million in federal stimulus funds, \$275 million in Model Toxics Control Accounts, \$255 million in alternative financing, and \$1.2 billion in other funds. Due to the passage of the federal American Rescue Plan Act, the budget appropriates \$189 million from the Coronavirus Capital Projects Fund for projects that support work, education, and health monitoring, including remote options in response to the pandemic. Additionally, \$400 million is allocated to the Coronavirus State Fiscal Recovery Fund to make necessary investments in water, sewer, and broadband infrastructure.

Expenditures of note include:

- \$175 million through the Housing Trust Fund & \$174.9 million in additional housing & shelter funding
- \$95.2 million for community-based behavioral health facilities, and \$333 million for state mental health facilities
- \$411 million for broadband infrastructure
- \$129 million for the Public Works Assistance Account
- \$14 million for Local Solid Waste Financial Assistance grants
- \$25 million for Community Economic Revitalization Board capital construction projects

- \$40 million for streamflow restoration programs enacted after the Supreme Court's Hirst decision

2021-23 Transportation Budget: Transportation revenues were hit hardest throughout the COVID-19 pandemic and have been slow to rebound. Prior to the beginning of the legislative session, the Washington State Supreme Court overturned I-976, which would have limited car tabs to \$30. This meant that the state could budget car tab revenues that it had otherwise not planned to receive. Even with this additional revenue, a revenue shortfall due to the impacts of the pandemic remained, and a need to invest significant funding in replacing state-owned culverts. This shortfall, combined with significant statewide demand for transportation investments in preservation and maintenance and new projects, prompted a great deal of discussion about a transportation revenue package.

Unfortunately, an agreement was not reached on a revenue package. Instead, the Legislature adopted a 2021-23 Transportation Budget that used federal funds to continue projects that have already been allocated funds and to pay for the replacement of state-owned culverts. The total 2021-23 Transportation Budget was \$11.7 billion, with \$1.126 billion allocated to fish barrier correction using a watershed approach.

During the 2021 legislative session, there was discussion of a "grand bargain" where legislators would approve a transportation revenue package, a low carbon fuel standard, and a cap and invest system. While the Legislature reached agreement on a low carbon fuel standard and cap and invest system, they did not reach agreement on a transportation revenue package.

There were several transportation revenue package proposals released; however, the two with the most momentum came from the House Transportation Committee Chair, Rep. Jake Fey (D-Tacoma) who released a framework for the *Miles Ahead* proposal, and the Senate Transportation Committee Chair, Sen. Steve Hobbs, who introduced bills proposing the *Forward Washington* plan. The notable differences between these two proposals that prevented an agreement on a single proposal included: 1) how high the gas tax should be increased; 2) whether cap-and-invest revenues should be spent only on projects that reduce carbon in the transportation sector, or all transportation projects; 3) the level of investment in preservation and maintenance.

Without a revenue package, the Legislature adopted a 2021-23 Transportation Budget that used federal funds to continue projects that have already been allocated funds and to fund the replacement of state-owned culverts. The total 2021-23 Transportation Budget was \$11.7 billion, with \$1.126 billion allocated to fish barrier correction using a watershed approach.

Notably, the two bills authorizing a low carbon fuel standard and the cap-and-invest systems included language delaying the effective date of enforcing compliance with the program until the Legislature enacts a state a gas tax increase of at least five cents. These provisions were included to provide motivation for legislators to reach an agreement on a transportation revenue package in a special session, or in the 2022 session. Governor Inslee vetoed the provisions of these bills linking them to the approval of a transportation revenue package. This makes the prospects of a future transportation revenue package uncertain – that said, since the veto, legislators have been indicating that they still intend to continue discussions of a transportation revenue package.

What is a low carbon fuel standard and a cap-and-invest system?

Low Carbon Fuel Standard: [House Bill 1091](#), sponsored by Rep. Joe Fitzgibbon (D-Buren), will enact a statewide low carbon fuel standard that aims to decrease the carbon intensity of transportation related fuels by 20% below 2017 levels by 2038. Traditional fuel producers will need to either decrease the carbon intensity of their fuels or purchase clean fuel credits which may increase the cost of gasoline. Clean Fuel producers will generate credits that can be monetized to further support decarbonization efforts such as electric vehicle infrastructure like public and fleet charging. The final bill can be found [here](#) and a summary can be found [here](#).

Cap-and-Invest: [Senate Bill 5126](#), sponsored by Sen. Reuven Carlyle (D-Seattle), would establish a cap-and-invest program in Washington state which places an economy wide charge on carbon emissions in an effort to reduce carbon over time. Those who are regulated entities either need to reduce carbon emissions or pay a fee. Unlike a Low Carbon Fuel Standard, this policy raises direct revenue for projects in the state's transportation budget (that must be tied to decarbonization). Examples of projects that could be funded from this pot of money include electric ferries, transit and various multimodal projects. The Department of Ecology will begin rulemaking in anticipation of a revenue package eventually being adopted. The final bill can be found [here](#) and a summary can be found [here](#).

City of Blaine's Legislative Priorities

Addressing Train/Vehicle Delays at Bell Road (SR 548)

For several years, the City has advocated for a solution to address the major local traffic delays caused by the Vehicle and Cargo Inspection System (VACIS), which blocks traffic across Bell Road (SR 548) and backs up on to Interstate 5 at Exit 274. A grade separated crossing over the train tracks is the ideal solution to address this congestion, enhance public safety, connect Blaine with Birch Bay and Semiahmoo, promote economic development, and support the movement of goods into and out of the United States. However, last year WSDOT's further evaluation of the grade separation project uncovered significant engineering challenges, local access issues, and an unexpectedly high construction cost. The City worked with WSDOT over the summer to evaluate several alternatives and decided that the best course of action would be to construct an at-grade, signalized intersection at Bell Road and Peace Portal Drive with channelization improvements (bypass lanes) to improve traffic flow and reduce delays. This project is estimated to cost \$3 million to complete. The City and GTHGA notified the 42nd Legislative Delegation as soon as WSDOT informed the City of the needed project change and updated them throughout the process.

Since the City had already received funding within the transportation budget for the Grade Separation project (\$1.55 million), the main priority for the 2021 session was to request a change in project scope and title to utilize the remaining funding for the newly established intersection project. The City also requested an additional \$1.45 million within the 2021-23 transportation budget to receive a total of \$3 million for the intersection. It was shared with the City well in advance of session that the additional funding request would be extremely challenging to accomplish this session, since the current transportation budget was experiencing significant funding shortfalls.

Prior to session, the City met with Rep. Jake Fey, Chair of the House Transportation Committee to discuss the revised project and the need for funding this biennium. Given the depleted status of the

transportation budget, it was clear that a revenue proposal would be needed for any new projects to be funded. However, GTHGA and the City worked well in advance of the session to ensure that the delegation and transportation leadership were aware of the unique circumstances of this project and the need for immediate funding.

GTHGA met with both House and Senate transportation policy staff to explain the need for the scope and title change for the previous project. Both chambers followed through on this request early in the session. GTHGA continued to work with the delegation and transportation budget leaders to make sure the additional funding for the project would still be considered. Simultaneously, the conversations around a transportation revenue package continued to advance and both the Senate and House Transportation project list proposals included funding for the Bell Road Intersection Project. The City submitted written comment during the public hearings on the proposals to convey appreciation for including the project, but the need for funding to be included in the existing budget.

Through final negotiations, the Legislature prioritized the need for the Bell Road Intersection and made an immediate investment of an additional \$1.2 million, in addition to the scope change, totaling in \$2.75 million. This is a huge victory considering the limited amount of flexibility within the 2021-23 transportation budget. Although the total cost of the project is \$3 million, the City can use the \$2.75 million to make headway on a resolution for the community.

Downtown Blaine Revitalization Project

The City of Blaine requested \$1 million to supplement \$700,000 allocated by the City for downtown commercial district improvements to support the business community. The final capital budget includes \$500,000 for the project. Initially, the House version of the capital budget included \$500,000 for the project, while the Senate version did not include funding. Once the City was made aware of the possible funding that could be included in the final budget, the City took the initiative to apply for a federal grant to receive the remaining \$500,000 needed to complete the \$1.7 million project (\$700,000 in which the City has committed investing in the project). GTHGA worked with the City to draft a letter of support and collect signatures from the 42nd state legislative delegation. This letter was sent to Congresswoman DeBene but was ultimately unsuccessful in moving forward. The City is considering sending a request in to Senator Patty Murray as well. All in all, the state investment is a great accomplishment for the City and will provide a significant portion of the funds needed to complete a phase or portion of the downtown improvements.

Marine Drive Reconstruction Project

The City requested \$3.1 million to fund the reconstruction of Marine Drive. There was limited state funding available for new transportation investments without the adoption of a transportation revenue package. While an agreement has not been reached on a transportation revenue package, the City submitted the necessary forms this session in order for the project to be considered and will continue to work with legislators to advocate for the project to be included. (see above for more details on the development and next steps regarding a transportation revenue package).

Local Transportation Revenue

The City of Blaine supports the inclusion of increased local funding tools authorized at the state level to meet city transportation needs. As a border community, the City of Blaine is unique from other communities. Visitors from Canada frequently travel into the City of Blaine and utilize Blaine's

infrastructure without contributing to the tax base. To address this, the state previously authorized border communities to impose a "border gas tax" with voter approval. The City of Blaine, Sumas and Nooksack have utilized this authority.

Prior to session, the City met with Rep. Fey, Chair of the House Transportation Committee and Rep. Bill Ramos (D-Issaquah), 2nd Vice Chair of the House Transportation Committee, to discuss authorizing border communities to increase the gas tax by an additional cent. Last session, Rep. Ramos introduced a bill to provide cities and counties with increased local options to fund local transportation maintenance and operation. Specifically, the bill would authorize cities to councilmanically increase the sales tax by up to .04 percent of 1%, impose an additional 2% utility tax (above the current 6% cap), and impose a local 2-cent fuel tax councilmanically, with an additional 2 cents that can be voter-approved. The bill did not pass last session, but Rep. Ramos informed the City that he and the Chair continue to work on including the concept within House Transportation revenue package.

In an effort to advance the conversations around an additional local gas tax authorization through a second avenue, the City and GTHGA worked with Rep. Shewmake to introduce [House Bill 1284](#), that would authorize border communities to impose a second cent through voter approval. It was communicated to both Rep. Fey, Rep. Ramos and the delegation, that the purpose of this bill was to bring awareness of the need, specifically for the City of Blaine, and to support the overarching efforts brought forth by Rep. Ramos. GTHGA drafted a letter supporting both concepts. The City coordinated with Mayor Onyon, the Mayor of Sumas and Mayor of Nooksack to sign on to the letter, which was sent to Rep. Fey, along with Rep. Shewmake and Rep. Rule. Shortly after the letter was sent, the bill was scheduled for a public hearing in the House Transportation Committee and the City was able to testify in support, along with the Mayor of Sumas.

However, several components stopped the bill from progressing any further through the legislative process. Rep. Shewmake informed GTHGA and the City that the bill would no longer move forward, and instead, the effort would shift to rolling Rep. Ramos' concept (see above) into a transportation revenue package. The bill certainly served the intended purpose of elevating the issue and Rep. Shewmake, the City and GTHGA will continue to work with Transportation leaders to include the authorization for Blaine to increase local fuel tax in the overall transportation revenue proposal. Unfortunately, a package did not pass this year but will certainly continue to be a top priority for the Legislature to address.

REET Flexibility

The City of Blaine supports flexibility in the use of Real Estate Excise Tax to allow the funds to be used for maintenance and preservation of capital facilities, particularly during the COVID-19 recovery. The Association of Washington Cities played a lead role in the conception and advancement of [House Bill 1069](#), sponsored by Rep. Gerry Pollet (D-Seattle), which provides cities with the option to temporarily have more flexibility in the use of existing revenues. This allows REET 2 to be used toward the provision of services to residents of affordable housing or shelters, allows up to \$100k or 35% of REET 2 funds to be used for operations and maintenance of existing capital projects. The City signed in support of the proposal during the public hearings and testified before the House and Senate policy committees, specifically sharing support for the REET section of the bill. Additionally, the bill allows criminal justice sales tax dollars to be used toward reducing homelessness or improving behavioral health; removes supplanting limitations on voter-approved levies that are

adopted in 2019; provides flexibility for use of lien authority for collection on city-owned utilities and allows mental health and chemical dependency sales tax revenues collected by cities to be spent on minor improvements to protect health and safety. Most of these provisions, including the REET 2 piece, will end on December 31, 2023. The final bill can be found [here](#) and a summary can be found [here](#). The bill has taken effect since the Governor signed it into law on May 13, 2021.

RCO Aquatic Lands Enhancement Program

The City submitted a grant application in 2020 and was ranked number 13 to receive funding within the Aquatic Lands Enhancement Account (ALEA) to rebuild the beach at Marine Park. This project will create near-shore habitat for fish and other wildlife, create public access, protect infrastructure, and make other park improvements. The final capital budget includes funding for all 18 of the ranked ALEA projects. Therefore, the City will receive an award of \$500,000 for the project.

Additional Legislative Issues

Below are additional policy and budgetary items that the Legislature approved, and that may have an impact on the City. As such we have provided detail to ensure the City is aware of the new laws that have been approved.

Main Street Tax Credit Program: [House Bill 1279](#), sponsored by Blaine's local legislator, Rep. Alicia Rule (D-Blaine), increases funding to the Main Street Tax Credit Program. The bill allows credits made in the year 2020 to be carried over an additional two years, adds an additional 25% business and occupation tax and public utility tax credit on contributions to the main street trust fund in the year 2021, and enhances the amount of funding available in the program. The bill increases the statewide cap on main street credits to \$5 million. The bill also includes a sunset clause which will end the program January 1, 2032. The City shared support for the proposal throughout session, and also testified during the public hearings. The bill was signed into law on April 21, 2021, and will go into effect on October 1, 2021. The final bill can be found [here](#) and a summary can be found [here](#).

Tax Increment Financing: [House Bill 1189](#), sponsored by Rep. Davina Duerr (D-Bothell), authorizes increment financing in the state of Washington, which is an economic development tool that allows growth to pay for the infrastructure needed to spur that growth. Blaine City Council reviewed this concept prior to the legislation, approved supporting such a concept, but did not make it a top priority for this session. However, it was indicated through public hearings and through conversations with legislators throughout the session that the City was supportive of the bill. This financing tool is already available in 49 other states and Washington, D.C. The final bill can be found [here](#) and a summary can be found [here](#).

State-Shared Revenues: All traditional state-shared revenue accounts were funded (liquor profits, liquor taxes, cannabis revenue, municipal criminal justice assistance, city-county assistance, fire insurance premium tax, etc.). Additionally, there was an increase in state-shared revenues in two accounts:

- Cannabis revenue sharing was increased by \$10 million, bringing the amount cities and counties share up to \$40 million. This additional \$10 million will be distributed by the same criteria as existing revenues.
- New city assistance funds of \$20 million are appropriated to be distributed on a per capita basis to cover the costs of police reform legislation.

Public Works Assistance Account: The Public Works Assistance Account was appropriated \$129 million, which is the largest amount appropriated to the Account in recent history. \$1 billion is allocated to rental and utility assistance; however, the bulk of this funding is intended to be for rental assistance. An additional \$100 million is provided for Low Income Utility Assistance utilizing federal funding - \$80 million is provided for energy assistance, and \$20 million provided for water and wastewater assistance.

GMA Interim Work: While the Legislature considered half a dozen bills reforming the Growth Management Act (GMA), those bills did not pass into law. Instead, the Operating Budget directs three interim actions to occur this next interim:

- In lieu of the passage of [House Bill 1117](#), the Office of Financial Management is directed to report to the Legislature on how to incorporate a net ecological grain standard into state land use, development, and environmental laws. A report is due by December 1, 2022 (page 81 of the 2021-23 Operating Budget).
- In lieu of the passage of [House Bill 1099](#), the Department of Commerce is directed to create optional model climate elements for cities to consider.
- The Department of Commerce is directed to convene a task force to make recommendations regarding needed reforms to the state growth policy framework, including the growth management act, state environmental policy act, and other statutes related to growth, change, economic development, housing, social equity, and environmental conservation (page 64 of the 2021-23 Operating Budget).

Development Regulations for Shelters and Housing: [House Bill 1220](#), sponsored by Rep. Strom Peterson (D-Edmonds), updates the GMA to include planning for and accommodating affordable housing and also includes language preempting local control on the siting of certain types of housing. The bill requires jurisdictions to amend the housing element of the GMA comprehensive plan. However, the bill contains language that states that any new requirements to incorporate any such new or amended elements shall be null and void until funds sufficient to cover applicable local government costs are appropriated and distributed by the state at least two years before local government must update comprehensive plans as required in RCW 36.70A.130. The Legislature did not appropriate funds within the 2021-23 Operating Budget for local governments to perform this work, meaning jurisdictions do not need to perform this work at this time. The Legislature is likely to consider funding this work during the 2022 legislative session as part of its supplemental budget.

The bill also includes language preempting local control on the siting of certain types of housing. Cities must allow transitional housing and permanent supportive housing in any zone where residential units or hotels are allowed. Indoor emergency shelter and emergency housing must be allowed in any zones where hotels are allowed **or** in a majority of zones within a one-mile proximity to transit. Cities retain the authority to require reasonable occupancy, spacing, and intensity of use requirements to protect health and safety. The Governor vetoed sections of the bill that would have encouraged jurisdictions to allow accessory dwelling units both within and outside urban growth areas. The final bill can be found [here](#) and a summary can be found [here](#).

Tenant Protections and Landlord Assistance: [Senate Bill 5160](#), sponsored by Sen. Patty Kuderer (D-Bellevue), establishes a plan, including mediation, for when the eviction moratoria ends. On March 18, 2020, Governor Inslee issued Proclamation 20-19 to prohibit a number of activities related to evictions by all residential landlords operating residential rental property in the state. Since then, the Governor has issued multiple extensions of the eviction moratorium with the current variation, Proclamation 20-19.6, set to expire June 30, 2021. The bill requires landlords to offer a repayment plan to tenants six months following the end of the moratoria, and payments may not be more than 1/3 of the tenant's monthly rent; allows landlords to claim up to \$15,000 in reimbursement from the Landlord Mitigation Program for unpaid rent if a tenant defaults on a repayment plan; dispute resolution centers are authorized to establish a two-year, statewide eviction resolution program. A landlord may be liable for violations of the tenant protections up to 2.5 times the monthly rent. At the request of legislative leadership, Governor Inslee vetoed sections 12 and 13 of the bill, which directed the Department of Commerce to provide financial relief to landlords through various grant programs. The reasoning for the removal of previous funding requirements within the bill were due to insufficient funding within the final operating budget and duplicative grant opportunities provided within House Bill 1368, which stemmed from federal funding and went into effect on February 19, 2021. The partially vetoed bill was signed on April 22 and went into effect on the same day. The final bill can be found [here](#) and a summary can be found [here](#).

Public Health Governance Structure and Funding: Rep. Marcus Riccelli (D-Spokane) and Sen. June Robinson (D-Everett) introduced Governor-request legislation limiting local elected officials' control over public health oversight and administration: [House Bill 1152/Senate Bill 5173](#), would have eliminated Local Health Jurisdictions (LHJs) and formed regionalized Comprehensive Public Health Service Districts under the jurisdiction of the Department of Health; and [House Bill 1110](#), would have restructured local boards of health so that a majority of the board would be comprised of non-elected officials representing health care or public health professionals, marginalized populations, and community stakeholders. House Bill 1152 ultimately became the vehicle for both proposals. As introduced, the bill would have also required cities to contribute to foundational public health services funding.

As passed the Legislature, House Bill 1152 makes only two changes: (1) establishes the Public Health Advisory Board and (2) requires changes to the composition of local boards of health. The Public Health Advisory Board must monitor, develop goals and recommendations for, and evaluate the state's public health system. AWC, two WSAC member counties, and two WSALPHO member health jurisdictions are provided Advisory Board membership. The bill also requires all counties, except those with pre-existing advisory boards, to change the composition of their local boards of health to be comprised of at least half non-elected officials. New members are in addition to existing elected official membership. Non-elected members must come from the following categories: public health or medical professionals, consumers of public health who have faced significant health inequities, and other community stakeholders. The operating budget provides an unprecedented level of investment in foundational public health services funding: \$147 million in the 2021-23 biennium and an ongoing \$148 million/year beginning in FY 2023. This is in addition to the \$28 million/biennium the Legislature approved in the 2019 legislative session. The final bill can be found [here](#) and a summary can be found [here](#).

Response to *Blake* Decision: [Senate Bill 5476](#), sponsored by Sen. Manka Dhingra (D-Redmond), is in response to the Washington State Supreme Court ruling in *Blake*, which asserted that the statute

stating that the possession of controlled substances is illegal is unconstitutional. Senate Bill 5476 re-criminalizes the possession of controlled substances, making it a misdemeanor rather than a felony until July 1, 2023. Notably, misdemeanors are handled through municipal/district court, rather than superior court. It is possible, if not likely, that there will be a shift in costs from superior court to municipal/district court. [Click here](#) to view AWC's summary of this issue.

For such violations, law enforcement officers can confiscate the controlled substances but must offer a referral to available assessment and services in lieu of jail booking and referral to the prosecutor. If law enforcement records indicate that a person has previously been diverted to referral for assessment and services at least twice, the officer may then arrest. Prosecutors are not precluded from exercising discretion to divert or decline to file charges when referred drug possession cases, and are encouraged to divert such cases for assessment, treatment, or other services. Unlike previous drafts, there are no provisions that contain legalized personal use amounts, nor a reduction from a misdemeanor to a civil infraction at a later date.

The Washington State Health Care Authority (HCA) is charged with establishing a recovery services advisory committee to create a substance use recovery services plan. The purpose of the plan is to implement measures to assist those with a substance use disorder in accessing outreach, treatment, and recovery support services that are low-barrier, person-centered, informed by people with lived experience, and culturally and linguistically appropriate. Additionally, the committee must make recommendations regarding the appropriate criminal legal system response, if any, to possession of controlled substances. It must also make recommendations regarding the collection and reporting of data that identifies the number of people law enforcement officers and prosecutors engage with regarding drug possession, and the design of a mechanism for referring people with a substance use disorder, or who display problematic behaviors resulting from substance use to supportive services. A final plan is due to the Legislature by December 1, 2022.

The HCA will also establish several other plans and programs, including:

- A comprehensive statewide substance misuse prevention plan. As a part of this plan, the HCA must administer a competitive grant process for existing local community efforts to prevent substance misuse. The plan must be completed by January 1, 2024.
- A grant program to provide treatment for low-income individuals with substance use disorder who are not eligible for Medicaid. Grant distribution must begin by March 1, 2022.
- A grant-based homeless outreach stabilization transition program. Grant distribution must begin by March 1, 2022.
- Funding for behavioral health administration services organizations to establish recovery navigator programs. These programs will provide community-based outreach, intake, assessment, connection to services, and, as needed, long-term intensive case management and recovery coaching services to individuals with substance use disorders.
- An expanded recovery support services program that increases regional access to recovery services for substance use disorder such as housing, employment training, recovery coaching, and legal support.

By July 1, 2022, the Criminal Justice Training Commission must develop new training for law enforcement officers on how to manage interactions with people they encounter with substance use disorders, including referral to treatment and recovery services. The training will be incorporated into the curriculum at the Basic Law Enforcement Academy.

In addition to the \$83.5 million in the state's budget to help the state and counties manage the legal impacts of the *Blake* decision, **an additional** \$88.4 million is provided to help establish the new programs outlined above. Of that \$88.4 million, \$4.5 million will go to the Administrative Office of the Courts to help enhance municipal and district therapeutic courts. There are no direct appropriations to cities to offset the costs of diversion and prosecution. The final bill can be found [here](#) and a summary can be found [here](#).

Criminal Justice Reform: The Legislature made it a top priority to address a variety of components related to the state's criminal justice system. Cities are allocated \$20 million on a one-time basis, distributed based on population for costs to cities related to police reform bills passed in 2020-21. Below is a summary of the notable police reform bills that passed:

Office of Independent Investigations: [House Bill 1267](#), would establish the Office of Independent Investigations within the Office of the Governor for conducting fair and competent investigations of police use of force incidents. The Office has jurisdiction to investigate any incident involving a use of deadly force by an involved officer occurring after July 1, 2022, including any incident involving use of deadly force by an involved officer against or upon a person who is in-custody or out-of-custody. The Office may investigate prior incidents if new evidence is brought forth that was not included in the initial investigation. An involved law enforcement agency must notify the Office immediately upon rendering the scene safe and providing aid to those with life-threatening injuries of any incident involving a use of deadly force resulting in death, substantial bodily harm, or great bodily harm. The Office may investigate any incident it selects for investigation and must complete its investigation within 120 days. An 11-member Advisory Board will oversee the Office. \$22.1 million is included in the budget to implement the bill. The final bill can be found [here](#) and a summary can be found [here](#).

Audits of Use of Force Investigations: [House Bill 1089](#), sponsored by Rep. Bill Ramos (D-Issaquah), will establish compliance audits of law enforcement agencies through the State Auditor's Office (SAO). The SAO is required to conduct a process compliance audit of any completed deadly force investigation to determine whether the involved law enforcement agency, investigative body, and prosecutor's office acted in compliance with specific statutory and administrative rules for conducting deadly force investigations. Upon the request of the Commission, the SAO may audit any law enforcement agency to ensure the agency is in compliance with all rules and procedures governing the training and certification of the agency's peace officers. A copy of the audit must be sent to the Commission, law enforcement agency, city or county council, county prosecutor, and relevant committees of the Legislature. Law enforcement agencies do not pay any costs or fees for either type of audit. The bill contains a provision that says it is null and void if specific funding is not appropriated, and the operating budget does not allocate specific funding. The final bill can be found [here](#) and a summary can be found [here](#).

Impeachment Disclosures: [House Bill 1088](#), sponsored by Rep. John Lovick (D-Mill Creek), would update policies and procedures for addressing potential impeachment disclosures in law enforcement pursuant to *Brady v. Maryland*. Each county prosecutor must develop and adopt written protocols to address potential impeachment disclosures. The Criminal Justice Training Commission (CJTC) must provide online training for potential impeachment disclosures. Law enforcement agencies shall report to prosecuting authorities within 10 days of discovery, any act that could potentially be exculpatory to a criminal defendant. Prior to hiring an officer, an agency must inquire whether the officer has previous

impeachment disclosures (prosecuting authorities have 10 days to response to a request from any agency regarding hiring an officer). Additionally, it establishes limited immunity from civil liability for a public agency, official, or employee who shares impeachment information about an officer with a prosecuting authority, the officer's employer, or potential employer. The final version of the bill can be found [here](#) and a summary can be found [here](#). The budget allocates \$62,000 to the CJTC to implement the bill.

Data Collection: [Senate Bill 5259](#), sponsored by T'wina Nobles (D-Fircrest), directs the Office of Attorney General to establish an advisory group to assist with the design, development, and implementation of a statewide use of force data program. The Advisory Group should submit recommendation by April 1, 2022. In the meantime, law enforcement agencies are required to report on a delineated list of use of force instances. The 2021-23 Operating Budget allocates \$5.8 million to implement the bill. The final bill can be found [here](#) and a summary can be found [here](#).

Law Enforcement Recruitment: [House Bill 1001](#), sponsored by Rep. Jacquelin Maycumber (R-Republic), will create a law enforcement professional development outreach grant program through the Criminal Justice Training Commission (CJTC) to encourage a broader diversity of candidates from underrepresented groups and communities to see careers in law enforcement. Law enforcement agencies are eligible to compete for funds no later than December 1, 2021; no single grant may exceed \$60,000. There must be one grant recipient from each side of the state. CJTC is required to produce a report by December 1, 2022, on the grant recipients, use of funds, and potential impact on recruitment. The final 2021-23 Operating Budget (p.235) allocates \$530,000 to CJTC for this grant program (\$269,000 in 2022, and \$261,000 in 2023). The final bill can be found [here](#), and a summary can be found [here](#).

Arbiter Selection: [Senate Bill 5055](#), sponsored by Sen. Joe Nguyen (D-Seattle), establishes an arbiter selection procedure for grievance arbitrations involving law enforcement personnel regarding disciplinary actions, discharges, and terminations on or after January 1, 2022. The Public Employment Relations Commission (PERC) would manage a roster of 9-18 specialized law enforcement grievance arbitrators with training in resolving police discipline disputes. PERC's executive director assigns an arbiter, or a panel of arbiters, to grievance arbitrations in alphabetical order on a rotating basis. The parties to the arbitration may not participate in, negotiate for, or agree to the selection of a particular arbiter. PERC is required to publish the final decisions on its website. The final bill can be found [here](#), and a summary can be found [here](#).

Reforming the "Felony Bar" Statute: [Senate Bill 5263](#), sponsored by Sen. David Frockt (D-Seattle), amends the "felony bar" statute that bans a person who sustains injury or death while committing a felony from being able to bring a civil action. The bill states that in actions arising out of law enforcement activities resulting in personal injury or death, the law enforcement officer has a complete defense to the action if a finder of fact (a jury rather than a judge) determines beyond a reasonable doubt that the person injured or killed was engaged in the commission of a felony at the time of the occurrence causing the injury or death, the commission of which was a proximate cause of the injury or death. If this defense is brought forward, it cannot be done on summary judgment. However, this defense does not affect the right to bring a lawsuit under the federal Civil Rights Act of 1983. The final bill can be found [here](#), and a summary can be found [here](#).

Changes in Police Tactics: [House Bill 1054](#), sponsored by Rep. Jesse Johnson (D- Federal Way) makes changes to the various police tactics that peace officers may utilize. The final bill can be found [here](#) and a summary can be found [here](#).

- *Neck Restraints and Chokeholds:* A peace officer may not use a chokehold or neck restraint on another person.
- *Military Equipment and Military Surplus Program:* A law enforcement agency may not acquire or use any military equipment, including firearms and ammunition of .50 caliber or greater, machine guns, armed helicopters, armed or armored drones, armed vessels, armed vehicles, armed aircraft, tanks, long range acoustic hailing devices, rockets, rocket launchers, bayonets, explosive grenades, incendiary grenades, missiles, directed energy systems, and electromagnetic spectrum weapons. Each law enforcement agency must compile an inventory of military equipment possessed by the agency, including the proposed use of the equipment, estimated number of times the equipment has been used in the prior year, and whether such use is necessary for the operating and safety of the agency or some other public safety purpose. The agency must provide the inventory to the Washington Association of Sheriffs and Police Chiefs by November 1, 2021. The Washington Association of Sheriffs and Police Chiefs must summarize the inventory information from each law enforcement agency and provide a report to the Governor and the Legislature by December 31, 2021. Any law enforcement agency in possession of military equipment must return the equipment to the federal agency from which it was acquired, if applicable, or destroy the equipment by December 31, 2022. However, the restrictions on military equipment do not prohibit a law enforcement agency from participating in a federal military equipment surplus program, provided that any equipment acquired through the program does not constitute military equipment.
- *Tear gas:* A law enforcement agency may not use or authorize its peace officers or other employees to use tear gas unless necessary to alleviate a present risk of serious harm posed by a riot, barricaded subject, or hostage situation. Prior to deploying tear gas, the officer or employee must: exhaust alternatives to the use of tear gas that are available and appropriate under the circumstances; obtain authorization to use tear gas from a supervising officer; announce the intent to use tear gas; and allow sufficient time and space for the subject or subjects to comply. In addition, if the riot is occurring outside of a correctional, jail, or detention facility, the officer or employee may use tear gas only after receiving authorization from the highest elected official in the jurisdiction.
- *Vehicular Pursuits:* A peace officer may not engage in a vehicular pursuit, unless: there is probable cause to believe that a person in the vehicle has committed or is committing a violent offense, sex offense or an escape offense, or there is reasonable suspicion that a person in the vehicle has committed or is committing a driving under the influence offense; the pursuit is necessary for the purpose of identifying or apprehending the person; and the person poses an imminent threat to the safety of others and the safety risks of failing to apprehend or identify the person are considered to be greater than the safety risks associated with the vehicular pursuit under the circumstances. An officer must receive authorization to engage in any vehicular pursuit from a supervising officer.
- *Firing upon Vehicles:* A peace officer may not fire a weapon upon a moving vehicle unless necessary to protect against an imminent threat of serious physical harm resulting from the operator's or a passenger's use of a deadly weapon.

- *No-Knock Warrants*: An officer may not seek, and a court may not issue, a search or arrest warrant granting an express exception to the "knock and announce" rule.
- *Identification*: Law enforcement agencies must adopt policies and procedures to ensure that uniformed peace officers while on duty and in the performance of their official duties are reasonably identifiable.
- *Canine Teams*: The CJTC must convene a work group to develop a model policy for the training and use of canine teams. The CJTC must publish the model policy on its website by January 1, 2022.
- *Civil Use of Force Standard*: [House Bill 1310](#), sponsored by Rep. Jesse Johnson (D–Federal Way), establishes civil standards for use of force by a peace officer. When using physical force, peace officers must use the least amount of physical force necessary and use the least amount of force possible to effect a lawful purpose. Additionally, it requires the attorney general to develop model policies on law enforcement's use of force and de-escalation tactics and requires individual law enforcement agencies to adopt policies consistent with the model policies. The final bill can be found [here](#) and a summary can be found [here](#). The budget allocates \$605,000 to develop of use of force model policy as described in the bill.
- *Duty to Intervene*: [Senate Bill 5066](#), sponsored by Sen. Manka Dhingra (D-Redmond), would create a duty for all peace officers to intervene if another officer is engaging in excessive use of force against another person. The Criminal Justice Training Commission is the primary entity responsible for developing model policy on duty to intervene. The bill also contains provisions to prohibit retaliation. The final bill can be found [here](#) and a summary can be found [here](#). \$920,000 in the budget is appropriated to the CJTC to implement the bill.
- *Decertification of Officers for Misconduct*: [Senate Bill 5051](#), sponsored by Sen. Jamie Pederson (D-Seattle), would expand background investigations for applicants of law enforcement and creates a new process to decertify peace and corrections officers through the Criminal Justice Training Center (CJTC). Notable provisions include: requiring employing agencies to complete—rather than only conduct—an investigation when there is an indication that an officer was laid off pending a disciplinary investigation or resigned or retired in anticipation of discipline that would likely lead to suspension or discharge; requires the CJTC, in collaboration with interested parties, to develop a set of policies, procedures, and rules by June 30, 2022, to ensure that the goals of the act are fully implemented, and to provide clarity as to how the CJTC will process complaints, investigations, and hearings, and impose sanctions; and modifies background check requirements to include a review of social media accounts and membership in extremist organizations as defined by the CJTC. The final bill can be found [here](#) and a summary can be found [here](#).