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## **Live from Washington: Division, Drugs, and a Dinosaur**

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### **Abstract**

The 2022 legislative session in Washington State saw legislators returning to in-person deliberations after the worst days of the COVID-19 pandemic. Despite being physically close, the partisan and ideological differences were as large as ever. The ever-expanding Democratic majority had unprecedented revenue to spend, while Republicans argued for more fiscal responsibility. Given their dominant position in both legislative chambers, Democrats were able to make significant investments in addressing homelessness, mental health, and education.

### **Introduction**

This year marked the first in-person legislative session since the start of the pandemic. In 2022, many legislators transitioned back to Olympia to work in their office, but the public meetings were still held online. This year not only did the legislature meet in-person, but they also welcomed the public back to the legislative session. However, in light of recent governmental security issues public access was limited. Prior to the pandemic, members of the public could directly access legislative offices to talk with the legislative assistant or possibly catch the legislator in their office. Now, to access the legislative office area, one must have an appointment and be escorted by a staff member. Even with these changes, being back to in-person provided lawmakers with a renewed buzz of energy and optimism to tackle not just the budget, but also the contentious issues of housing, public health, and safety. Being back in-person also brought an expectation for improved legislative collaboration.

Early in the session, the legislature received the news of an expected revenue increase of \$2 billion, per biennium, from the 2021 cap-and-invest law. In historic Washington State legislative form, they were not hard pressed to find ways to spend this new money but were challenged to keep the budget within the increased amount. While budgets, housing, public health, and safety topped the legislators' focus list, they also found time to add a new cultural recognition month, provide House

members the opportunity to see the sun and the stars (though probably mostly the rain), while working and to add a 37-foot long theropod to join pickleball as one of the state's official symbols. In the end, they accomplished three out of their four priorities and the governor had to call them back for a special session to complete the fourth.

## **Economic Context**

### *Revenue Decreases Predicted*

Washington State relies heavily on the sales tax to fund state government operations; sales tax revenue accounts for around 50% of state revenue in any given year. A recession has been predicted nationwide for some time and in the most recent revenue forecast issued by the state's Office of Financial Management (OFM), it appeared that recession was coming to Washington. On March 20<sup>th</sup> of this year, OFM predicted a \$483 million dollar decrease in revenue collection for the 2023-2025 biennium, and predicted a decrease of about \$541 million in revenue for the 2025-2027 biennium. The decreases were attributed to lower personal income due to inflation, an anticipated recession (translating into lower sales tax revenue), and lower residential construction forecasts. Republicans have been talking about the possibility for a recession for quite some time and have urged their Democratic counterparts to not spend every single penny of revenue coming into the state. OFM's prediction came at a critical point in the legislative session as discussions about all three budgets were ramping up at the end of March when there were just a little over three weeks left in the 2023 legislative session.

There continues to be inconsistent economic news which will impact budgeting moving forward. An estimate published by the Washington State Economic and Revenue Forecast Council on June 27, 2023 (issued after the legislature had already adjourned and passed the three budgets) predicted an increase of \$327 million predominantly due to stronger than expected capital gains revenue, and a subsequent prediction made in November 2023 also predicts an increase in state revenue projections over the next four years. However, the State Employment Security Department issued a report in September about hiring trends and while the state added 2900 new jobs in August 2023 (substantially better news than the job loss reported in July), the rate of new jobs added is still significantly lower than the hiring rate in summer 2022 and the rate of growth is not consistent across economic sectors (Roberts 2023). Hiring in Washington State is also predicted to grow by just 1.1% in 2024 versus 2.4% in 2023 (Roberts 2024).. Fields such as tech and construction are reporting higher rates of hiring while sectors such as hospitality (hotel/motels and restaurants) and temp agencies are still "anemic" (Roberts 2023). Inflation, lingering supply chain challenges and high interest rates are also impacting the economy and thus, will impact anticipated revenue moving forward.

### *Capital Gains Tax*

In 2021, the legislature passed a bill that created a 7% tax, called a capital gains tax, on the sale or exchange of long-term capital assets such as stocks, bonds, business interests, or other investments and tangible assets (Department of Revenue). The tax applies to profits over \$250,000 and does not apply to real estate or retirement accounts.

As soon as the measure passed, lawsuits were filed as the Washington State Constitution has been interpreted by the state Supreme Court as banning income taxes because the court found in 1930 that income is property, and the state constitution requires that taxes on property be uniform; since not all Washingtonians have capital gains and would not be paying this property tax, the capital gains tax is not uniform making it unconstitutional. Opponents further argue that because the tax is only on profits over \$250,000 and thus is not uniform, the tax is a violation of the constitution. Finally, opponents argue the Internal Revenue Service classifies money made from capital gains as income; thus levying a capital gains tax is unconstitutional as the state was now taxing income. There is also concern that those with the means to invest in the state will leave due to this new tax.

Proponents of the tax argue that the capital gains tax is an excise tax as the tax is on the sale or exchange of the aforementioned assets rather than on the assets themselves. They further argue that a capital gains tax is a critical step to addressing the regressive tax structure found in Washington.

On March 24, 2023, in a seven to two decision, the Washington State Supreme Court ruled that the capital gains tax is an excise tax and thus is constitutional and valid. Justice Debra Stevens wrote in the decision that, “The capital gains tax is an excise tax because taxpayers do not owe the capital gains tax merely by virtue of owning capital assets or capital gains, like a property tax...The tax relates to ‘the power to sell or transfer capital assets — like an excise.’”<sup>1</sup> On the other hand, Justice McCloud wrote in the dissent that, “The structure of the capital gains tax shows that it is a tax on income resulting from certain transactions — not a tax on a transaction...Capital gains’ are income. In Washington, income is property. A Washington ‘capital gains tax’ is therefore a property tax.”<sup>2</sup>

Supporters have cheered the court’s decision as a step in the right decision to correct the state’s regressive tax system while opponents have voiced concern that this may open the door to future income taxes – an idea that Washington voters have rejected ten times. Opponents are also concerned about the Supreme Court’s willingness to overturn nearly 100 years of precedent that has defined income as property. The tax is expected to bring in about \$500 million a year in revenue (Gutman and Withycombe 2023) and with the most recent revenue forecast predicting a decline in revenue, the additional funds are welcome. Further, there continues to be talk in the legislature of finding ways to “right” the regressive tax structure in Washington and the Supreme Court ruling about the capital gains tax will certainly impact that conversation.

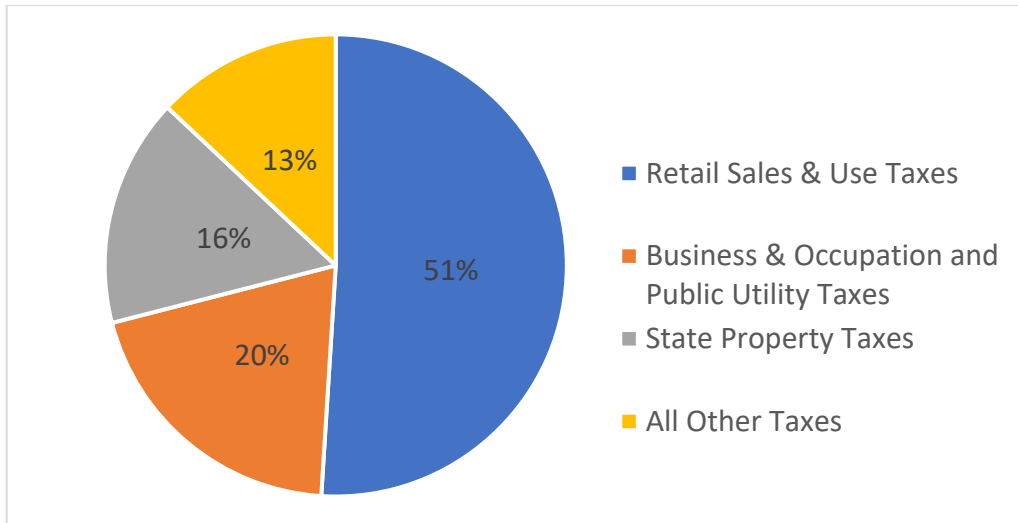
The following chart contains a breakdown of the revenue story for Washington State:

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<sup>1</sup> Quinn v. the State of Washington. No.21-2-00075-8. (Wa. March 24, 2023).

<sup>2</sup> Quinn v. the State of Washington. No.21-2-00075-8. (Wa. March 24, 2023).

**Figure 1. State Government General Fund Tax Revenue**



Source: Washington State Economic and Revenue Forecast Council: <http://www.erfc.wa.gov>

## Political Context

Washington continues to maintain its status as a solidly-blue state and Democrats again increased the number of seats held by the party in the 2022 elections. In the House, the Democrats hold a very comfortable 58 to 40 margin over the Republicans. The Democrats also have a decisive majority in the Senate where Democrats have a 29 to 20 majority. Combined with the presence of a Democrat, Jay Inslee, in the governor’s mansion, the Democrats have the opportunity to push their priorities through the legislature with little to no opposition.

The 2022 elections were the first held under the redistricting plan approved by the legislature earlier in the year. One of the main criticisms of the plan was that it reduced the number of competitive legislative districts throughout the state and the results of the 2022 election seemed to bear that out. The vast majority of races in 2022 were decided by substantial margins with only a handful of races coming close to being competitive. Among those competitive races included a race for the House in the 10<sup>th</sup> legislative district – north of Seattle in Snohomish, Skagit, and Island counties – where Republican incumbent, Greg Gilday, and Clyde Shavers, Democrat, faced off. Gilday won the race for this seat in 2020 by less than 900 votes, but what made this race particularly interesting in 2022 was that in the weeks leading up to the election, Shavers’ own father accused his son of falsifying both his military record and his standing as a lawyer. The accusations were given enough credibility that the *Everett Herald*, the local paper, rescinded its endorsement of Shavers and endorsed Gilday instead (The Herald Editorial Board 2022). However, despite the evidence suggesting that Shavers had never served on a submarine, nor had he actually passed the bar exam despite representing himself as a practicing lawyer, Shavers still won the race by 211 votes. The other race in the 10<sup>th</sup> legislative district between Dave Paul and Karen Lesetmoe was also close, relative to other races in the state, indicating that the northern part of Puget Sound which used to be solidly Republican is becoming more competitive.

One of the other close races was in the 26<sup>th</sup> legislative district which encompasses part of the Southern Kitsap peninsula into Gig Harbor in Pierce County. The Senate seat in that district was open in 2022, and the controversial incumbent republican member of the House, Jesse L. Young, vacated the House seat to run for the Senate, leaving an open House seat. This district is a blue-leaning-purple district and the other member of the House, Republican Michelle Caldier, has held her seat for quite some time and won easily in 2022. Democrat Adison Richards and Republican Spencer Hutchins ran for the open seat with Hutchins ultimately winning by a margin of only 735 votes.

That only two races in the 2022 election cycle were decided by small margins is indicative of a trend in Western Washington where fewer and fewer districts are competitive between the two political parties. Because the state's population is predominantly located on the west side of the state in the greater Puget Sound area, and that area is mostly represented by Democrats, the Democrats in the legislature have taken a decided turn to the left and the policies considered during the 2023 legislative session reflect that. Danny Westneat, a columnist for the *Seattle Times*, in 2021 even went so far as to write an opinion piece titled, "It's Seattle's state now in politics, and everybody else is living in it" (Westneat 2021). While this was a bit of a tongue-in-cheek comment on the progressive nature of bills passed during the legislative session, it does capture the feelings of Washingtonians who live outside of the Greater Puget Sound area about the Seattle/Democrat domination of the state legislature.

Washington State also has many women who serve in the legislature. Currently women make up 46.3% of the legislature, ranking Washington 4<sup>th</sup> nationally. It is important to note that those women do disproportionately come from the Democratic party. In Washington, both the Senate and the House are led by women as Karen Keiser serves as President Pro Tempore in the Senate, and Laurie Jinkins replaced 20-year veteran Frank Chopp as Speaker of the House in 2020. Women occupy other positions in leadership in both chambers including:

In the Senate

- President Pro Tempore Karen Keiser
- Deputy Majority Leader Manka Dhingra
- Majority Caucus Vice Chair Rebecca Saldaña
- Assistant Majority Whip Claire Wilson
- Majority Whip T'Wina Nobles
- Republican Caucus Chair Judy Warnick
- Republican Deputy Floor Leader in the Senate Nikki Torres

In the House:

- Speaker of the House Laurie Jinkins
- Speaker Pro Tempore Tina Orwall
- Majority Caucus Chair Lillian Ortiz-Self
- Majority Floor Leader Monica Jurado Stonier
- Minority Floor Leader Jacquelin Maycumber
- Minority Caucus Vice Chair Kelly Chambers

Democrat Governor Jay Inslee was elected in 2020 to a relatively unprecedented third term in office as Washington has no term limits for governors<sup>3</sup>; while there was some speculation that he would seek a fourth term in 2024 he announced in May that he will not run for governor in 2024. Inslee has been well known in Washington for his almost singular focus on issues pertaining to the environment and, particularly, carbon emissions. With the help of the democratic majorities in both chambers, Washington passed the Climate Commitment Act in 2021, also known as cap and investment, which seeks to cap and reduce greenhouse gas emissions, and implemented a clean fuel standard. Inslee has continued his almost singular focus on the environment even after these legislative victories.

As a result of Inslee's decision not to run in 2024, several candidates from both the Democratic and Republican parties have thrown their hats into the ring to be Washington's next governor including the current Attorney General (a Democrat), a current Democratic State Senator, a former King County Sheriff and Congressman (a Republican), among others. Inslee has already endorsed the Attorney General, Bob Ferguson, who is seen as the heir apparent to the governor's mansion.

Washington is one of many states nationwide with many independently elected statewide executives – in addition to the governor, there are eight statewide elected officials. Only the superintendent of public instruction is elected in a non-partisan race and as of 2021, all of the other seven statewide elected executives are Democrats.

## **Summary of Budget as Introduced, Including any Key Gubernatorial Initiatives**

For the 21-23 biennium budget, Governor Inslee, with the support of Democratic majorities in the legislature, successfully passed a \$62 billion budget addressing many of his key priorities. In his proposed 23-25 biennial budget, the governor proposed \$70 billion in spending in the operating budget. While this paper will not address each requested expenditure, it does highlight some of the key components of the proposed budget—housing, mental health, and early childhood education.

Before discussing the issues, it is important to note that the budget proposal does not include a mechanism for raising new tax revenue. The assumption is that the state will reap rewards from its new capital gains tax and that these new dollars flowing to the state will support the policy initiatives outlined in this budget. The capital gains tax, at the time of the governor's proposed budget, was still before the Washington State Supreme Court in the case of *Chris Quinn v. State of Washington* but the governor proposed the budget based on a favorable Supreme Court ruling. If the Court sided with the executive branch and the majority in the legislature, all would be good. If the ruling indicated that the constitutional was in violation, the legislature would need to significantly reconsider its spending priorities (O'Sullivan 2023a).

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<sup>3</sup> The last and only other three term Governor in Washington State's history was Dan Evans who served as Governor from 1965-1977.

### *Affordable Housing*

The governor's proposed budget recommended that the state borrow \$4 billion to pay for additional housing and shelters for those who are currently experiencing homelessness (Withycombe 2023). As we discussed above, the issue of homelessness remains a critical problem facing the state. The annual point-of-time count of unsheltered people happens the last week of January. In January of 2022, the Department of Housing and Urban Development determined that 25,211 individuals were without a home in the state at that time. Over half of those individuals were without a shelter of any kind. This is up 10% since the count in 2020. These numbers place the state in the top 10 states in the country with respect to the number of unhoused persons (Bernstein 2023). King County, which is home to Seattle, has argued that HUD's Point-In-Time approach misses some individuals experiencing precarious housing situations and that a more comprehensive approach is warranted. By their estimates, over 33,000 individuals experienced homelessness at some point in 2022 (Swenson 2022). In other words, the problem might be far greater than the official count.

For the state to borrow the proposed \$4 billion, it would need to receive the support of voters in November (unless the state legislature decides to call for a special election before that time). The voters would have to approve the sale of bonds because failure to do so would mean that the state would have to borrow an amount of money more than the debt limit which is determined by a formula outlined in the state constitution. Once again, failure to gain the endorsement of voters will force a reconsideration of this portion of the governor's proposed budget.

### *Behavioral Health*

The state has been shifting away from using state hospitals for non-forensic patients. In part this shift is due to the fact that these hospitals are now facing bed shortages which has left individuals in prison when the courts have ruled that they do not meet the standards for cognitive ability necessary for them to face a criminal trial. In a 2015 case, the state was forced by a federal court judge to speed up this process. Chief United States District Judge Marsha Pechman said, "Our jails are not suitable places for the mentally ill to be warehoused while they wait for services. Jails are not hospitals, they are not designed as therapeutic environments, and they are not equipped to manage mental illness." Even with this admonition, the state has repeatedly been in contempt of court related to its inability to improve the efficiency of moving individuals from incarceration into institutions designed to support the mental health of these persons. While the state has not been compelled to pay, the fines levied against them if they had to do so it would amount to over \$300 million (Frame 2022).

The money allocated in the governor's proposed budget was designed to do several things including: increase hospital bed capacity in parts of the state, help with the new University of Washington Behavioral Health Training School (which is due to open in 2024), and increase the amounts paid out to providers through the Apple Health Medicaid system. In addition to the state's failure to meet the needs of forensic patients, the data suggests that, more broadly, the mental health needs of Washingtonians are not being adequately addressed. The Bureau of Health Workforce assigns Health Professional Shortage Area designations to areas with unmet needs based on a lack of providers.



### *Early Childhood Education*

The governor proposed an additional \$200 million in spending for 23-25 on early childhood education. The estimates suggest that this spending would help to increase the number of slots by 2,000 every year and increase slot reimbursement rates by 40%. This was designed to address two problems with the state's current system. First, using numbers from December of 2020, 33,528 children in the state were eligible for the program, but there were less than half that number of slots available (Office of the Governor). Likewise, the reimbursement rate is designed to incentivize retention among program staff. Rekah Strong, who is the CEO of Educational Opportunities for Children and Families stated that, "We've been operating at a deficit. Now you have people going into classrooms with higher (student-teacher) ratios... We need a different kind of investment into staff and wages, we need to fund them the way they deserve to be" (Reilly 2023).

The challenges facing young learners in the state have been compounded by the COVID-19 pandemic. Data from the Department of Children, Youth, and Families show that between 2019 and 2022 there has been a 17% decline in the number of preschoolers meeting developmental expectations (from 79% to 62%) (Warren 2023). The pandemic created new problems and exacerbated existing challenges in the early childhood education system. Democratic control of the executive and legislative branches of Washington State government will likely mean that the governor will be successful in expanding financial support for these programs.

### **Summary of Budget Battles within the Legislature, Key Changes Made, and Reasons for Such Changes**

In his 23-25 biennial budget, the Governor proposed a \$70 billion operating budget. The House and Senate each proposed similar biennial budget amounts of \$69.5 billion and \$69.2 billion respectively. Where the legislative proposed budgets diverted from the governor was that the House proposed budget included funding for affordable housing (\$704 million), behavioral health (\$895 million), and support for a \$4 billion referendum to borrow money to address housing shortages and homelessness. The proposed House budget included no new proposed taxes. The Senate's proposed budget included funding for public schools (\$30.7 billion, a 10.5% increase) and placing \$3.8 billion in reserves (rainy day) – in anticipation of an uncertain economy. The Senate's proposed budget included no new taxes, but did include taxes from the capital gains tax, \$700 million from the new cap and investment program, and \$200 million in leftover COVID-19 federal relief funds. Part of the reason the House and Senate Democratic leadership proposed no new taxes was the win they notched when the state Supreme Court ruled in favor of the new capital gains tax. The Supreme Court decision was timely and coincided just as Democrats began unveiling their initial budget proposals. Overall, the greatest separation between the three proposed budgets centered on the governor's proposed \$4 billion bond measure for affordable housing. The Senate proposal did not include this proposed money, but the House budget did.

This year also marked the first in-person legislative session since the start of the pandemic. This change provided lawmakers with a renewed buzz of energy to face a long legislative session, pass a two-year budget, and tackle the contentious issues of housing, public health, and safety. While the legislatures were in-person, the vestiges of pandemic-era sessions remained with hybrid

committee hearings allowing remote public testimony and weekly online legislative leader news conferences. Even with this, many legislators remarked on the session's improved legislative collaboration.

### *Housing*

The legislature got onboard with Governor Inslee's repeated messaging of, "Go big so people can go home." and dubbed 2023 the "big one" for housing. While the legislature did not go so far as to pass the governor's multi-billion-dollar bond plan, the legislature delivered significant policy and spending changes (Office of the Governor 2023). The 2023 legislature earmarked more than \$1 billion to tackle housing needs and address homelessness. This included \$400 million for the state's Housing Trust Fund.

Several bills were introduced to the legislature to address housing and specifically middle housing – i.e. housing that falls in between single family homes and apartment complexes. Key to addressing this issue is changing zoning to allow duplexes, triplexes, and quadplexes (among other formats) to be built in areas previously zoned for other types of housing. House bill (HB) 1110 introduced by Representative Jessica Bateman (D-Olympia) increased middle housing supply by allowing for more diverse housing options (Washington State House Democrats). The law impacts cities differently depending on their population. HB 1110, along with HB 1245, allows for lot splitting for larger lots to build a cottage or additional home, and HB 1293 streamlines construction permitting in urban growth areas (O'Sullivan).

In the Senate, Senate bill (SB) 5290 sponsored by Democrat Mark Mullet of Issaquah passed the Senate unanimously on March 6<sup>th</sup>. The bill seeks to improve predictability and timeliness for review and approval of residential building permits. It also provides more resources for local governments to review permits more quickly and allow for electronic filing of permit applications (Washington State Democrats). SB 5235 allowing for accessory dwelling units and SB 5466 increasing density near transit also passed the Senate (O'Sullivan).

The governor made housing a priority in his 2023 State of the State address and announced that he would be sending a \$4 billion bond sale to the legislature for their consideration. If passed by the legislature, this measure would have gone to Washington voters for their consideration; the bill did not make it through the legislative process, however. Critics of the governor's proposal pointed to the fact that despite the state and cities such as Seattle, putting millions into homeless solutions, the number of unhoused persons in the state has increased, and this bond would be outside the state's debt limit. There was also concern among some that the proposal was not comprehensive enough. Specifically, that the homeless crisis is also partly due to drug addiction and mental health issues, yet under the governor's leadership the state's major mental health hospital, Western State Hospital, lost its national accreditation (King & Campbell), and legislation to address these facets of the homeless crisis are not being talked about.

### *Health Care*

The Washington State Legislature also had a major focus on the area of health care. It passed Senate Bill 5236 requiring hospitals to turn staffing plans into the Washington State Department

of Health; this has an overall intended goal of easing patient loads and compensating for the healthcare staffing shortage. Secondly, it focused on mental health by enhancing the 988 mental health crisis support phone line, which now coordinates with the already existing suicide prevention hotline. It also funded mobile units and training for crisis teams in each county. The legislature, this session, was not exempt from fights over abortion and gender-affirming care, as the Democratically controlled legislature worked to protect access to those services. While the majority's preference was to memorialize these actions in a stronger-than-law fashion, there were not enough votes in the legislature to amend the state constitution and establish abortion protection. The resulting laws created a new so-called "shield law" to prevent the state's courts, cops, and judges from carrying out legal action against or retaliation of people providing or seeking abortion and gender-affirming care for out-of-state charges (Mikkelsen).

### *Key Education Initiatives*

Learning loss in K-12 education resulting from school closures due to the pandemic was a hot topic during the 2023 legislative session. Legislators focused on addressing both learning loss and the need to fund special education in the state. Washington State is unique in that it is the only state in the union whose constitution mandates "ample" funding for K-12 education as the "paramount" duty of the state. As a result of this mandate, as well as the 2012 *McCleary* court case, Washington state spends around 50% of its state budget on education. However, parents, teachers, and legislators alike have argued that the pandemic had such a significant impact on learning that the current funds are not sufficient to address the struggles students continue to face as a result of COVID.

State funding for special education comes from two sources: the basic education per student allocation that all schools receive to fund both general and special education, as well as a portion of funding specifically set aside for special education. The state, however, caps funding for special education when 13.5% of the students in a school district receive special education. Because of this cap, school districts are spending over \$400 million more per year than they receive in state and federal funding on providing education for special needs students; this cost is especially significant in rural school districts (Senate Bill Report SB 5311). SB 5311 increases the special education enrollment funding cap for special education from 13.5% to 15% which would allow for more state money – almost \$800 million over the next four years (Washington Senate Republican Caucus) – to go to school districts to pay for special education. SB5311 would also fund special advocates for students receiving special education services (Washington Senate Republican Caucus).

The legislature initially tried to expand Washington's free lunch program to cover all school children but ended up needing to scale back the original proposal, to get enough votes, to a phased expansion of the program which by the 2024-25 school year, K-5 elementary schools could offer universal free breakfasts and lunches if up to 30% of students at the school qualify for free or reduced lunch (O'Sullivan).

## *Budgets*

The outcome of the 2023 legislative budget work resulted in the passage of the operating, transportation, and capital budgets. The operating budget was not embraced by the entire legislature but viewed by minority legislators as a partisan budget. It passed the House on a mostly partisan 58-40 vote and in the Senate only eight Republicans joined Democrats in passing it 37-12 (Camden).

The \$69.2 billion operating budget was able to take advantage of and spend some of the first dollars raised from Washington's new carbon cap and invest law, passed in 2021 to address climate change. The 2021 law requires the purchase of pollution allowances for petroleum-based production companies or companies which haven't achieved the state's emissions requirements. The first two pollution allowance auctions in 2023 brought in over \$800 million and in expectation for future auctions, the legislature has budgeted nearly \$2 billion in projected income for the next two years (Demkovich 2023b). While this is an increase in legislature funds, it is anticipated that the companies paying for these allowances will pass the cost on to the consumers in the form of higher gas and product prices. The legislature's final decision was to use the emission funds to target projects focused on charging infrastructure, electric ferries, salmon recovery, wildfire protections, energy efficiency, building weatherization, and carbon emissions reductions.

The budget addressed housing with \$400 million to the Housing Trust Fund funding to add about 4,400 new affordable housing units over the next two years and 13,200 over the next six years. It supports the Washington State Housing Finance Commission's Land Acquisition Program that helps developers purchase land for affordable housing developments. The budget also provides \$111 million to maintain services and emergency housing and shelter, creates a new Covenant Homeownership Program that focuses on helping marginalized families become homeowners. It also creates and funds a new initiative to transition people living in encampments on state rights of way into safer shelters and housing.

The legislature also increased its support of education with targeted funding for special education and continued funding for nurses, counselors, and social workers. This is the largest legislative K-12 investment since the education funding increases which came about based on the Supreme Court's McCleary 2012 decision.

**Table 1: Operating Budget Highlights**

Policy Domain	State Expenditure
K-12 Education	\$2.2 billion (\$417 million – special education)
Long-term Care and Developmental Disabilities	\$1.8 billion
Behavioral Health	\$1.1 billion
Public Health and Healthcare	\$1 billion
Natural Resources	\$684 million
Forensic Hospital at Western State Hospital	\$613 million
Housing and Homelessness	\$519 million
Childcare and Early Learning	\$590 million
Climate Commitment Act	\$406 million
Poverty Reduction	\$397 million
Higher Education and Workforce	\$382 million
Community Safety	\$253 million

Source: Kent, Jackie. April 23, 2023. *Legislative Roundup: Lawmakers pass operating budget on final day of session.*

The transportation budget, compared to the operating budget, was viewed as less partisan and passed the House 98-0 and the Senate 46-3. As the state’s second-largest budget, a \$13.5 billion transportation plan covers construction and repairs of highways and bridges, with additional money for mass transit and the Washington State Patrol (Prestrud 2023).

**Table 2: Transportation Budget Highlights**

Policy Domain	State Expenditure
I-5 Columbia River Bridge SR 167/SR 509 Gateway projects US 395 North Spokane Freeway	\$5.4 Billion
Washington State Ferry System (including 5 hybrid-electric ferries)	\$1.3 Billion
State-wide transit, electrification, bike, and pedestrian projects	\$1 Billion

Source: Prestrud, Charles. April 28, 2023. *Washington State Transportation Budget 2023-2025*.

Additionally, the state provided funding for studies related to: public-private partnerships, a state-wide retail delivery fee, local jurisdiction implementation of projects on state highways, Interstate 5 planning, and the implementation of vehicle miles traveled targets.

While the transportation budget had three no votes, lawmakers approved the \$9 billion Capital Construction Budget, without a single “no” vote.

**Table 3: Capital Budget Highlights**

Policy Domain	State Expenditure
Environmental Protection	\$717 million
Affordable Housing	\$694 million
New Forensic Hospital	\$613 million
K-12 School Construction	\$588 million

Source: Davis, Brett. April 21, 2023. *Washington state legislators announce \$8.9B construction budget*.

## **Budget -Adjacent Issues**

Legislators passed bills requiring gun owners to take and pass a safety course as well as banned the sale or manufacture of more than 60 different kinds of guns. Second Amendment challenges are expected related to the ban on certain rifle lengths and detachable magazine sizes. Washington State has not utilized the death penalty since 2010 and while the state Supreme Court invalidated the law in 2018 the state legislature this year passed the law to remove it from the books. Similarly, this year's law also removes other laws ruled unconstitutional such as allowing certain people to be sterilized. Even after over twenty years of legalized recreational cannabis use, the legislature continues to make tweaks to cannabis legislation. This included banning employment discrimination which makes it illegal for employers, with few exceptions, to discriminate against employees who use cannabis lawfully and away from the workplace, prohibiting, "the manufacture, importation, and sale of products that combine alcohol and [THC], and preparing for a potential change at the federal level, where cannabis remains illegal. Guidelines were established, if there ever is a change at the federal level, for Washington to engage in interstate commerce of cannabis" (Maupin 2023).

Other notable legislative bill highlights include:

- Strengthening the Orca buffer zone by requiring recreational boats on Puget Sound to stay farther from the area's southern resident killer whales
- Declaring, almost unanimously, January of each year as Americans of Chinese Descent History Month
- Funding the restoration of the old House and Senate skylights previously covered up, in the 1970s, due to safety and leak concerns (they anticipate the skylights return in time for the Capitol building's 100th anniversary),
- Creating a new state symbol.

Last but not least, after five long years of debate, there is now an official state Dinosaur. What started, five years ago, as a fourth-grade class request is now official and *Suciasaurus rex*, the only dinosaur with a bone fragment found in Washington, has become Washington's state dinosaur (Popescu and Lindsey 2023).

### *Police Pursuit Law and Recruiting/Retaining Law Enforcement Officers*

In 2021, the legislature passed a bill that barred police from engaging in high-speed pursuits except in very limited circumstances including reasonable suspicion that the driver is impaired, or the officer has probable cause (a higher standard) to believe they're an escaped felon or have committed a violent or sex crime (Associated Press 2022). Since implementation of the police pursuit law, crime rates in Washington have increased, and Washington was recently ranked third nationally for auto theft rates behind Texas and California, according to a report from the National Insurance Crime Bureau; the number of auto thefts leading to this ranking was a 31% increase from the previous year (National Insurance Crime Bureau 2023). And, in 2022, the Washington State Patrol reported that between January 1 and May 17, they logged 934 failure-to-yield incidents which troopers report as a dramatic uptick from the past (Associated Press 2022). In 2022, a

Redmond dispatcher, speaking with a man who admitted to driving on a suspended license, when asked to pull over, said, “No...he’s not going to get me” (Wornell and Abrams 2022).

Combined with anti-police sentiments following the Black Lives Matter movement in summer 2020, as well as the vaccine mandate for state employees implemented by Jay Inslee in 2021, the Washington State Patrol (WSP) has lost numerous troopers and other employees. HB 1380, prime sponsored by Republican Representative Drew Stokesbary, seeks to address this shortfall by giving funds to WSP to fund recruitment, retention, and support for law enforcement officers. This includes money for a new-hire bonus as well as a retention bonus (Thompson 2023).

Additionally, SB 5361, in addition to giving localities more money to hire and retain officers, would increase the police academy class size from 25 to 27 by 2025 as space at the state training academy has been a chokepoint for localities looking to bring on new law enforcement officers (Demkovich 2023a). Republican Representative Jacquelin Maycumber also introduced legislation to pilot providing law enforcement training in Eastern Washington by requiring the Criminal Justice Training Commission to host classes of at least 30 cadets, three times a year, in Eastern Washington, allowing officers to be trained in the communities where they will be working (Demkovich 2023a).

### *Special Session*

The Washington state legislature is a part-time legislature which meets in regular session for 105 days on odd-numbered years and 60 days on even-numbered years. If necessary, 30-day special legislative special sessions can be called by the governor or by a two-thirds vote of both the Senate and the House. Since 1980, over half of the legislative sessions have required at least one special session for the legislators to complete their work. In recent years the Washington state legislature has deviated from this norm by going five years without the need of a special session. This year, the governor broke the streak by calling a special session. Historically, a special session is called due to unfinished budget work with the legislature not passing one of the three (operating, transportation, or capital) budgets, but this year broke this norm (Washington State Legislature 2023).

The special session was called because the legislature hadn’t secured the passage of Senate Bill 5536. For two years, lawmakers have struggled to reach consensus after the Washington Supreme Court struck down the state’s felony drug possession statute and invalidated decades of convictions and related orders to pay restitution. During the 2021 legislative session a temporary stopgap making unlawful possession of a drug a misdemeanor crime on the third occurrence was achieved but was set to expire in July of 2023.

During the 2023 regular legislative session, legislators failed to pass the long-negotiated “Blake Bill,” which aimed to boost addiction recovery and treatment options while also enhancing legal penalties for drug use and possession. The bill was subject to emotional debates, but the final version missed the mark for progressive Democrats and Republicans. Governor Inslee viewed this legislature failure as “unacceptable” and called lawmakers back for a special session on May 16. They passed a bipartisan compromise on the issue in a single day. Under the new law, public drug



use and drug possession are both gross misdemeanors, punishable by 180 days in jail, a \$1,000 fine, or both. Jail time could increase to a year for someone with prior offenses (Beekman 2023).

## **Conclusion**

With COVID-19 in the rearview mirror, the 2023 legislative session brought back the more normal in-person session, albeit with increased security measures. Overall, 2023 was viewed by legislators as successful and more civil than recent sessions. Governor Inslee's announcement that he won't run in 2024 has started the political jockeying which is expected to increase into next year's legislative session. This next year will also reveal whether the governor is content with his current legacy or desires to up the ante.

The legislature followed its normal routine and took full advantage of the projected new cap and investment funds. The future will reveal whether this funding stream is sustainable or whether adjustments are necessary. Similarly, there are questions whether the current state of economic growth will continue or whether there will be an economic correction as well as what effect the capital gains tax will have on population migration and future tax revenue. At this time, the budget forecasters are slightly optimistic, but they continue to polish their crystal balls to increase the clarity of the future. This year's legislature committed considerable investment into emergency housing, affordable housing, and mental health. Since this was the first significant investment, in recent years, into these areas it will be important to watch the metrics to judge how well the legislature has identified each issue's root cause and whether their investments are accurately placed. And finally, now that there is a state dinosaur, what is the next state symbol to be debated?

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