



City of Lynden Legislative Report

April 26, 2023

Overview

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

- House Republican Minority Leader JT Wilcox and Deputy Leader Joel Kretz announced they were stepping down from their caucus leadership roles. Today, the House Republicans selected Rep. Drew Stokesbary (R-Auburn) and Rep. Mike Steele (R-Chelan) to serve as the new Minority Leader and Deputy Minority Leader.
- The Legislature failed to adopt legislation addressing *Blake* (see detailed summary below) making a special session in May/June likely.

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

Budget Summaries

Operating: The Operating budget funds all state agency operations, including K-12 education, the higher education system, social services, and more. The [2023-25 Operating budget](#) appropriates \$69.8 billion, a net increase of \$2.4 billion and leaves \$3.6 billion in reserves. The budget did not include any new tax increases. The largest allocation of new funding was for special education, school counselors, and nurses. Additionally, \$2.2 billion is allocated for pay increases for state employees. Funding was allocated to increase state reimbursement rates for privately run care operations, such as skilled nursing homes and assisted living facilities. Additional investments include \$44 million for local governments to integrate a climate change and resiliency element in comprehensive plans, \$111 million for emergency housing, shelter and associated services, \$66 million in one-time funding to support local housing and homelessness programs, \$60 million in one-time funding for local governments to provide

housing to individuals living in encampments, \$15.8 million for increased training capacity at the Basic Law Enforcement Academy, and more.

Capital: The state's biennial capital budget funds capital construction projects. The [2023-25 Capital budget](#) appropriated \$9 billion, \$4.7 billion of which is financed with general obligation bonds and the remainder is allocated through accounts funded through specified revenue streams such as loan repayments or specific fees. \$95.4 million in bond capacity is reserved for the 2024 supplemental capital budget. The Legislature invested heavily in affordable housing, allocating \$400 million to the Housing Trust Fund, and an additional \$40 million to the Housing Finance Commission's Land Acquisition Program, and \$60 million to fund utility connections to new affordable housing projects. Additional areas of investment include \$224 million for community-based behavioral health facilities, \$660 million for mental health state facilities, \$200 million for broadband, \$564.5 million for infrastructure including restoring the Public Works Assistance Account to historic funding levels, \$423.8 million for clean energy, energy efficiency and climate adaptation, \$798 million for water quality and stormwater grants, \$496 million for grants through the Recreation and Conservation Office, \$1.5 billion for higher education facilities, and \$827 million for K-12 public school construction. Because the capital budget is funded in part with general obligation bonds, it requires approval from 2/3 of each chamber and is traditionally a bi-partisan budget. That tradition continued this year with the 2023 capital budget being approved with near unanimous approval from both the House and Senate.

Transportation: The [transportation budget](#) funds the state's transportation system. The final 2023-25 Transportation budget includes total appropriations of approximately \$13.5 billion and honors the delivery schedule of many major projects that were funded through the 2015 Connecting Washington package. It also schedules some projects from the 2020 Move Ahead Washington package over the next three biennia. To view the phasing of funds for specific projects, [click here](#). Climate Commitment Act revenues are invested in carbon-reducing programs and initiatives, including \$72.2 million for Safe Routes to Schools and \$72.1 million for Pedestrian and Bicycle Safety grant programs. The Complete Streets grant program is allocated a total of \$33.7 million. Other highlights include \$7 million to address homeless encampments on WSDOT right of way and \$2.5 million for WSDOT to work with cities, counties, ports, and private entities to develop recommendations for truck parking sites.

Legislative Agenda Items

Lynden Senior & Community Center

The City requested \$300,000 for HVAC and seismic upgrades to the Senior & Community Center. The final capital budget allocates \$309,000 – with the additional \$9,000 covering the administrative fee that the Department of Commerce charges for administering the grant. The project is funded through state general obligation bonds. During the legislative session, there was some discussion on whether to fund the project through Climate Commitment Act funds, requiring the city to use a heat pump for the HVAC upgrade; that did not occur, so there is no specific requirement to use a particular technology.

Schoolyard Park Funding Request

The City requested \$300,000 for Schoolyard Park. The Legislature did not fund this request. Increasingly, capital budget writers have encouraged cities to apply to the Washington Wildlife Recreation Program's local parks grant program rather than request funding through the state capital budget.

Bradley Road Bicycle and Pedestrian Improvements

During the 2022 legislative session, the Legislature approved the Move Ahead Washington transportation package that funded projects over 16 years. At the City's request, the package included \$3 million for the Bradley Road Bicycle and Pedestrian Improvements but didn't indicate what year within the 16-year package that funding would be made available. For the 2023 session, the city requested that funding for the project be allocated \$3 million in the 2023-25 biennium. When initial House and Senate transportation budget proposals were released, neither proposal allocated the \$3 million in the 2023-25 biennium. Working with Rep. Joe Timmons, who serves as Vice Chair of the House Transportation Committee, the House amended its transportation budget proposal to advance the \$3 million to the 2023-25 biennium by adjusting the timeline for another project in the region – the Guide Meridian project. The final transportation budget honored this amendment and allocated \$3 million for the Bradley Road project in the 2023-25 biennium. It is important that the city complete the project by July 1, 2025.

Local Culvert Replacements

The city requested \$500,000 to replace the city-owned culvert at Baylyn Drive to align with the replacement of the culverts at Badger Road and the Guide Meridian. The Legislature did not fund this project. Culvert projects have been nearly exclusively funded through the Brian Abbott Fish Barrier Removal Board Grant Program.

Regional Budget Items

In addition to those items that the City identified as legislative priorities, below is a breakdown of other investments in the region that are included in the final capital budget. Many of these are through competitive grant programs that the Legislature funded. Items identified as being funded through a direct appropriation are legislative earmarks.

2023-25 Capital Budget Investments in the 42nd Legislative District:

- \$8.147 million for the Lummi Nation Substance Abuse Treatment Facility through a Behavioral Health Community Capacity Grant
- \$9 million for a Whatcom 23-Hour crisis relief center through a Behavioral Health Community Capacity Grant
- \$68,000 for an Unbridled Spirit Outdoor Program space through a Building Communities Fund grant
- \$550,000 for the Pickford Film Center through a Building for the Arts grant
- \$340,000 for the Lummi Nation BGC Facility Improvement Project through a Youth Recreational Facilities grant
- \$150,000 for the deWilde Rugby Fields in Ferndale through a direct appropriation
- \$824,000 for the Ejidos community farm in Everson through a direct appropriation

- \$3,050,000 for the Ferndale Civic and Community organization campus through a direct appropriation
- \$470,000 for the Nooksack Community Housing project in Deming through a direct appropriation
- \$150,000 for the Sumas Ave. water pipe replacement project through a direct appropriation
- \$502,000 for the Van Zandt community hall renovation in Deming through a direct appropriation
- \$764,000 to the Whatcom agricultural research station in Lynden through a direct appropriation
- \$1 million for the Whatcom dispatch center in Bellingham through a direct appropriation
- \$100,000 for a Waterfront Low Carbon District Energy System through a local emission reduction project allocation
- \$600,000 for Bellingham Bay restoration through a toxics site cleanup appropriation
- \$1.5 million for treoil industries through a toxics site cleanup appropriation
- \$10.3 million for the Nooksack River Floodplains that Work, Phase 3 through a Floodplains by Design grant
- \$300,000 for Blaine Marina Tank Farm through a remedial action grant
- \$2.65 million for central waterfront through a remedial action grant
- \$1.25 million for GP West through a remedial action grant
- \$1.955 million for I & J waterway through a remedial action grant
- \$770,000 for Sea K fish through a remedial action grant
- \$725,000 for Weldcraft steel and marine through a remedial action grant
- \$1.1 million for Westman Marine through a remedial action grant
- \$17.7 million for Whatcom waterway through a remedial action grant
- \$380,000 for old City Hall through the heritage capital grant program
- \$600,000 for Baker to Bellingham Olson Creek development through a safe and sustainable recreation grant
- \$4.133 million for Squalicum Creek at Baker Creek fish passage improvement through the Brian Abbott fish barrier removal board grant program
- \$3 million for Stewart mountain community forest through the community forest grant program
- \$201,000 for Dakota Creek Spooner Creek acquisition through the estuary and salmon restoration program
- \$1.575 million for shore friendly local organizations projects through the estuary and salmon restoration program
- \$9.975 million for the Nooksack Fish Camp restoration through the Puget Sound acquisition and restoration grant program
- \$2.9 million for the Nooksack river integrated floodplain connection through the Puget Sound acquisition and restoration grant program
- \$170,000 for FP Jacoby agricultural conservation easement through the Washington wildlife recreation grant program

- \$665,000 for RP Stewart mountain riparian reserve through the Washington wildlife recreation grant program
- \$312,000 for the SLDR north fork Nooksack river access through the Washington wildlife recreation grant program

2023-25 Transportation Budget Investments in the 42nd Legislative District:

Project	23-25	25-27	27-29	Future
Whatcom Transportation Authority – Whatcom Smart Trips	\$440,000	\$409,000		
Whatcom Transportation Authority – Bellingham Station Expansion		\$600,000	\$4.4 m	
Elevate Slater Road	\$1.5m			\$12m
I-5/Slater Road Interchange Improvements	\$28.946m	\$14.284m		
Lummi Island Ferry System Modernization and Preservation	\$4.8m			
Lummi Transit Bus Stop Upgrades (Tribal Transit Grant)	\$15,000			
Lummi Transit Electric Bus Acquisition (Tribal Transit Grant)	\$800,000			
Lummi Transit Fuel Transition (Tribal Transit Grant)	\$250,000			
Lummi Transit Maintenance Vehicle Acquisition (Tribal Transit Grant)	\$60,000			
Lummi Transit Service Support (Tribal Transit Grant)	\$991,000			
Slater Road Bridge	\$350,000			
SR 539/Guide Meridian				\$48.069m
SR 547 Pedestrian and Bicycle Safety Trail (Kendall Trail)				\$4.29m
Thornton Road Overpass (Ferndale)	\$630,000			

City Legislative Agenda Policy Statements

Public Safety

Possession of Controlled Substances: The city requested that the Legislature make possession of controlled substances an arrestable offense, and to provide opportunities for individuals to complete mandatory treatment to avoid prosecution. The Legislature considered [E2SSB 5536](#) sponsored by Sen. June Robinson (D- 38th LD), regarding the possession of controlled substances, but it failed the House by a vote of 43-55 on the final evening of the legislative session. Last week, the Legislature appointed a conference committee to reconcile the differences between the Senate and House versions of the bill. The version of the bill recommended by the conference committee made possession of controlled substances a gross misdemeanor; however, it was drafted in a manner that made it challenging for jurisdictions to prosecute the crime. The ACLU of Washington, Washington Association of Sheriffs and Police Chiefs, and the Washington Association of Prosecuting Attorneys, and some individual cities urged legislators to vote no on the version of the bill recommended by the conference committee. Meanwhile, the Fraternal Order of Police, Washington Retail Association, and Municipal and District Court Judges urged legislators to vote in favor. Fifteen democrats voted against the bill, objecting to creating criminal penalties for the possession of controlled substances (similar objections to the ACLU). Republicans voted against the bill arguing similar points to the Washington Association of Sheriffs and Police Chiefs and the Washington Association of Prosecuting Attorneys; that the bill would not create a functional consequence to motivate individuals to enter and complete treatment due to the challenges with being able to successfully prosecute the crime.

Following the Legislature's adjournment on Sunday evening, the Governor held a media availability and shared his desire for a special session to occur prior to July 1 to pass a statewide solution on *Blake*. Click [here](#) to watch it on TVW. Senate Democrat Leadership also held a media availability Sunday night where they shared their disappointment in the lack of House Republican support on the proposal and did not comment on whether a special session would be their preferred approach. Click [here](#) to watch it on TVW. The state's current policy on possession of controlled substances is set to expire on July 1. If the Legislature does not approve a statewide law prior to the statute expiring, individual cities will have the option to approve local ordinances establishing either a misdemeanor or gross misdemeanor for the possession of controlled substances, creating a patchwork of regulation throughout the state. Several individual cities have already announced that they plan to adopt an ordinance making possession of controlled substances a gross misdemeanor, effective July 1st.

Vehicular pursuits: [ESB 5352](#) sponsored by Sen. John Lovick (D-44th LD) lowers the evidentiary threshold for engaging in a vehicular pursuit to allow an officer to conduct a pursuit if there is reasonable suspicion that a person in the vehicle has, or is, committing a violent offense, a sex offense, a vehicular assault offense, an escape offense, a driving under the influence offense, or a domestic violence assault in the first-, second-, third-, or fourth-degree offense. The pursuit must be necessary for identifying or apprehending the individual and the fleeing person must pose a serious risk of harm to others.

Law Enforcement Officer Training through the Basic Law Enforcement Academy (BLEA):

The Legislature committed to training officers more expeditiously. Once a jurisdiction hires a new/rookie officer, they must complete training at the Basic Law Enforcement Academy. Historically, the Academy has had waitlist 6-12 months out from the officer's hire date. To reduce the waitlist, the Legislature allocated \$19.6 million to provide three additional BLEA classes at the main Burien campus each fiscal year and three new regional training academies (one each in Pasco, Skagit County, and Clark County) to support six additional BLEA classes per year.

Local Control/Land Use

Mandated Policies on Accessory Dwelling Units: [ESHB 1337](#) sponsored by Rep. Mia Gregerson (D-33rd LD) establishes statewide regulation of accessory dwelling units (ADUs) and detached accessory dwelling units (DADUs). As approved by the Legislature, all cities – regardless of population size – are required to allow two ADUs or DADUs on all lots that allow single-family homes. Additionally, under the bill cities may not require owner occupancy, may not impose an impact fee 50% more than the principle unit, may not establish a maximum gross floor area of less than 1,000 square-feet, may not impose height limitations of less than 24 feet, may not impose setbacks, yard coverage limits, tree retention mandates, restrictions on entry door locations, aesthetic requirements, or requirements for design review that are more restrictive than single family zoning, require DADUs to be sited at the lot line, and must allow existing structures to be converted into ADUs. The city will be required to implement the provisions of the bill six months following its next comprehensive plan update that is due on or before June 30, 2025. The Governor has not yet signed this bill into law.

Converted Existing Mixed-use/Commercial buildings to Residential: [ESHB 1042](#) sponsored by Rep. Amy Walen (D-48th LD) requires all cities to allow housing units to be added within existing commercial and mixed use buildings in zones where multi-family housing is permitted. Buildings being converted to residential use are allowed to have 50% more units than what is allowed in the zone otherwise. Cities would not be allowed to impose design standards or architectural requirements beyond those requirements applicable to all residential development within the building's zone. Cities are allowed to require the retention of existing parking but may not require additional parking that is not already in existence. The bill provides an exception for buildings listed on a local, state, or national historic register. The City is required to update its code to comply with this new law six months following its next comprehensive plan update that is due on or before June 30, 2025.

Required Middle Housing Types for Larger Cities: [E2SHB 1110](#) sponsored by Rep. Jessica Bateman (D-22nd LD) passed the Legislature. The bill requires cities with a population over 25,000 to allow a certain number of units per lot on all lots, and with more units per lot being required within ½ mile of major transit stops. The City of Lynden does not meet the population threshold required in the bill, but many of the state's 281 cities will be required to comply with this new law when they complete their next comprehensive plan update.

Objective design review: [ESHB 1293](#) sponsored by Rep. Mark Klicker (R- 16th LD) requires cities to apply only clear and objective design review standards to the exterior of new residential

development, except for designated landmarks or historical districts. The bill provides a definition of clear and objective design review standards. Additionally, cities may only require pre-application conference or a public meeting where otherwise required by state law. The City is required to update its code to comply with this new law six months following its next comprehensive plan update that is due on or before June 30, 2025.

Local Permit Review Processes: [2SSB 5290](#) sponsored by Sen. Mark Mullet (D- 5th LD) establishes a consolidated permit review program for local governments to issue final decisions for residential permit applications within specified time frames. The bill requires local governments to refund a proportion of the permit fees if they have not issued a final decision by the established time period outlined in the bill. The requirements take effect after January 1, 2025. A grant program is created in the bill to support local governments' transition from paper to digital permit filing systems.

Affordable Housing

Affordable Housing Funding/Resources: Housing advocates encouraged the legislature to increase funding for low-income housing by \$1 billion per year. Although the state did not meet this mark, significant investments were made in housing through the operating and capital budgets. The Legislature considered but did not advance a proposal to increase a state-imposed real estate excise taxes and to authorize a new local option for cities to impose a .25% real estate excise tax to fund affordable housing. The Legislature also did not advance a proposal from Governor Inslee to ask voters to approve a \$4 billion bond measure for housing.

The 2023-25 capital and operating budgets invest in affordable housing and sheltering support. Investments from the 2023-25 capital budget include the following:

- \$400 million for the Housing Trust Fund for the construction and renovation of affordable housing units to serve low-income and special needs populations, including individuals with chronic mental illness, individuals with developmental disabilities, and individuals experiencing homelessness or are in need of permanent supportive housing.
- \$60 million for grants to local governments and public utility districts to assist in the cost of utility improvements or connections to new affordable housing projects.
- \$50 million for housing developers and public entities to support transit-oriented housing.
- \$40 million for the Housing Finance Commission's Land Acquisition Program to help developers purchase land for affordable housing projects.
- \$14.5 million for youth shelter and housing projects.
- \$5 million for the Landlord Mitigation Account.
- \$83.2 million from the Inflation Reduction Act to implement Home Efficiency Rebates.
- \$35 million for weatherization and home health improvements for low-income households.

Significant housing and homelessness appropriations in the operating budget include:

- Emergency Housing and Shelter: \$55.5 million in general funds and \$55.5 million in CARES Act funds for grants to support emergency housing, shelter capacity, and associated support services.
- Homeless Services Contracts Increase: \$45.6 million

- Document Recording Fee Support: \$66 million in one-time funding to support state and local housing and homelessness programs in response to lower than anticipated revenues from document recording fees.
- Encampment Response and Outreach: \$60 million in one-time funding for grants to local governments and non-profits to provide housing and other services to individuals residing in state rights-of-way and other encampments on public lands.
- Housing and Essential Needs (HEN): \$26.5 million
- Permanent Supportive Housing: \$25 million for operations and maintenance of permanent supportive housing projects funded through the Housing Trust Fund.
- Children and Youth Housing Supports: \$22 million
- Covenant Homeownership Program (HB 1474): \$150 million

Creating the covenant homeownership account: The Legislature approved [2SHB 1474](#) sponsored by Rep. Jamila Taylor (D- 30th LD), establishes and funds the Covenant Homeownership Program to provide down payment and closing cost assistance to economically disadvantaged households. The Covenant Homeownership Program is funded through a \$100 document recording fee collected by county auditors.

Increasing supply and affordability of condominiums: [E2SSB 5258](#) sponsored by Sen. Sharon Shewmake (D- 42nd LD) contains several provisions aimed at loosening regulations to boost the construction and homeownership of condominiums and townhomes. It modifies the requirements for claims regarding construction defects and makes a qualified warranty insurance program available to developers subject to the Uniform Common Interest Ownership Act. The bill creates the Down Payment Assistance Account for buyers purchasing a condominium or townhome, funded by Real Estate Excise Taxes (REET) paid through the sale of condominiums and townhomes. Local impact fee schedules shall be amended six months after the city's next comprehensive plan update to reflect the proportionate impact of new housing units based on square footage and number of bedrooms, or trips generated, to generate a proportionally lower impact fee for smaller housing units. Additionally, cities are required to update short plat regulations to allow the division of a parent lot into separately owned unit lots.

Nooksack Basin Water Rights

Nooksack Adjudication Process: [House Bill 1792](#), sponsored by Rep. Joe Timmons (D-42nd LD), puts into law specific timeline requirements associated with the Nooksack adjudication:

- The return day for the latest time to file claims pursuant to a court summons must be not less than one year after the date on which the court ordered the issuance of the summons, unless special rules of procedure established by the court provide for a later date;
- The latest day for a party to appear by filing a claim in response to a court summons must be set by the court and listed within the summons as a date not less than one year after the service of the summons, unless special rules of procedure established by the court provide for a later date;

- Any summons of the adjudication claim form must state that adjudication claims must be filed not less than one year after the date on which the court ordered the issuance of the summons, unless special rules of procedure established by the court provide for a later date;
- The Department of Ecology must broadly distribute a draft version of the adjudication claim form to enable review and input by prospective claimants, including, at a minimum, Indian tribes, local governments, and special purpose districts, and must allow for at least 60 days of public comment on the draft adjudication claim form prior to adoption; and
- The latest date for filing evidence to support the claimant's adjudication claims must be no less than three years after the date for the filing of adjudication claims by a party set by the court, unless special rules of procedure established by the court provide for a later date.

0.09% Credit Against State Sales Tax

Rural public facilities sales and use tax: [SHB 1267](#) sponsored by Rep. Steve Tharinger (D-24th LD) renews the 0.09% rural county credit against the state sales and use tax for public facilities serving economic development purposes until the end of 2054. It requires the State Auditor to provide a publicly accessible report on its website containing rural county project and expenditure information and the total amount of revenue collected under the sales and use tax.

Public Records

The Legislature did not enact meaningful reform to the Public Records Act.

Growth Management Act

Climate Change Integrated Into Comprehensive Planning: [E2SHB 1181](#) sponsored by Rep. Davina Duerr (D-1st LD), amends the Growth Management Act to add a goal of climate change and resiliency, and several other changes to existing elements and sub-elements. The House passed the bill last month by a vote of 57-41, mostly on party lines. The Senate approved the bill on a party-line vote of 29-20 on April 7th. The city will need to comply with the bill as part of its comprehensive plan update that is due on or before June 30, 2025. The Washington State Department of Commerce is required to provide implementation guidance, and the 23-25 Operating Budget includes \$44 million for implementation costs, some of which will be for a grant program through the Washington State Department of Commerce.

State-Shared Revenues

The Legislature fully funded state-shared revenues for cities, and even established new state-shared revenues for areas that are newly annexed. The Legislature considered but did not advance a proposal that would have allowed local jurisdictions to increase property tax levies that are currently capped at 1% growth each year, despite inflation averaging 2.4% in the past decade. The proposal would have allowed property tax levies to increase above 1% based on inflation and population growth, up to 3%.

- **Incentivizing Annexation:** [2SHB 1425](#) sponsored by Rep. April Berg (D- 44th LD) re-authorizes the credit against the state sales tax as an incentive for cities to annex

unincorporated areas within their Urban Growth Areas. The start date is July 1, 2023, and the new expiration date would be January 1, 2029. On April 19, the Senate passed the bill unanimously. The bill now makes its way to the Governor to be signed into law.

Broadband

The Legislature invested in broadband by allocating \$30 million to provide digital navigation services, including device acquisition, subscriptions, and digital skills services to communities, including individuals seeking work, students, English language learner, Medicaid clients, people experiencing poverty, and seniors.

Additional Issues

[Click here](#) to view AWC's end of session report, highlighting additional bills that may impact the city. You can also [register for AWC's end of session recap](#) scheduled for May 18th.