

December 9, 2024



Unpacking the election

Looking at the impact on legislative & executive branches and what it could mean for disability services

What happened & what does it mean?

FEDERAL – Executive

- We are getting a new president.
- He is nominating new people to run agencies.
- He will nominate judges and justices as they need to be replaced
- He could ask agencies to review or update federal rules
- He can ask Congress to change laws
- He can't unilaterally declare war, but if we are attacked, he can order troops into action
- He sets the direction of his party (Republican)

The president-elect and his party (Republicans) prioritize making government smaller.

This would mean changes to public services.

What happened & what does it mean?

FEDERAL – Legislative

The Republican Party controls both chambers of Congress, though by narrow margins.

House: 220 – 215 ... but, in the beginning, it will likely be 217 – 215

- Expected to be down 3 until replacements named. 1 resigned; 2 have been nominated for administration roles

Senate: 53 to 47

- The Republicans held Congress and the presidency in 2017, but by 241-194. In the House All House members are up for re-election in just 2 years, so they have a narrow window to push through bigger changes.

This past year, federal budgets only passed with Democratic support, so if Republicans aren't completely aligned, budgets and bills could be difficult to pass.

What happened & what does it mean?

Expected from Congress

They are expected to use a budget reconciliation process to push policy change. (With this, they only need a simple majority; otherwise the Senate requires 60 votes to get past the filibuster)

Order:

Immigration & energy

Extend tax breaks – corporate tax breaks aren't up for renewal, but personal income taxes are

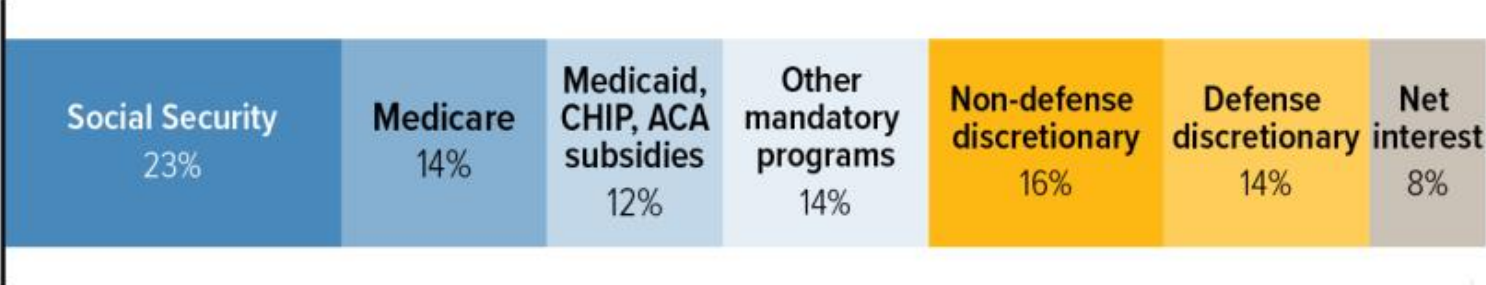
Reduce spending – with tax cut extension, budget writers will be looking for ways to reduce federal spending

The president-elect has pledged to protect Social Security, Medicare, and defense.

That leaves Medicaid as an extremely likely target for cuts

Federal Budget Context

Components of Federal Spending



Components of Federal Tax Revenue



Note: "CHIP" = Children's Health Insurance Plan. "ACA" = Affordable Care Act. "Other" includes excise, customs duties, and more. Data are for fiscal year 2023 and do not add to 100 percent due to rounding.

Source: Congressional Budget Office

Medicaid

Advocates are bracing for proposals to cut/limit Medicaid.

- This happened in 2017, the last time the Republicans controlled both chambers and the White House
- Most people with intellectual and developmental disabilities (IDD) rely on Medicaid for healthcare, therapies, and disability services. DDA waiver services are a type of Medicaid long-term service, as are personal care services through ALTSA
- Medicaid is a joint federal-state effort. States write their plans and get them approved by the Centers for Medicare and Medicaid. The federal government monitors the plans and provides a funding match, based on per capita income. The minimum match is 50% - \$1 federal for \$1 state.

DDA =

Developmental
Disabilities
Administration

ALTSA = Aging and
Long-term Services
Administration.

Both are part of the
state Department of
Social & Health
Services

Medicaid

Possible proposals

- Work requirements, which would require additional steps to eligibility.
 - People must prove they cannot work due to illness or disability
 - Goal is to reduce eligibility for the program and so spending
- Limits on acceptable provider taxes or other ways states can meet their match
- Block Grants or per capita caps
- Eliminating the Medicaid Expansion
- Changes to the funding formula

Per-Capita Caps/Block Grants



PER-CAPITA (PER BENEFICIARY ENROLLED) OR BLOCK GRANT (FIXED AMOUNT FOR THE STATE).



BASELINE YEAR + GROWTH RATE.



ISSUE: THE "GROWTH" RATE IS USUALLY MADE LOWER THAN ANTICIPATED SPENDING, DUE TO, FOR EXAMPLE, THE AGING OF SOCIETY.




DIFFICULT TO RESPOND TO ECONOMIC CIRCUMSTANCES OR PANDEMICS



REMOVES THE "STATE ENTITLEMENT" THE GUARANTEE THAT THE FEDERAL GOVERNMENT WILL PAY THEIR SHARE FOR COVERED SERVICES AND POPULATIONS



State Options

- 
- To make up for federal cuts states can:
 - Raise taxes
 - Shift funding from other state budgets
 - Make changes within Medicaid program

**States
have
many
“dials”
to lower
costs**

Optional vs. Mandatory services.

Optional vs. mandatory eligibility pathways.

Waitlists for services.

Reimbursement levels.

“Assessments” of need that lower overall service hours.

Summary of Concerns

HCBS = Home and Community Based Services, as opposed to institutional care. DDA's "HCBS" waiver services are not prioritized in the state budget, currently



Fixed amount of state budget allocations combined with reduction in federal spending means less money to go around.



States face tough choices to make up the difference with reduced federal spending



HCBS is optional and costly

EDUCATION

President-elect Trump has proposed shutting down the US Department of Education. He would need Congress to agree.

There is a [bill](#), sponsored by Sen. Mike Rounds of South Dakota. It would:

- Transfer responsibilities to other departments (IDEA and ESSA to the Department of Health and Human Services)
- Create block grants.
- It would be up to the states to decide how to use the block grant funding.
- Civil rights complaints would go to US Department of Justice.

Concern of some: Block grants could be used to divert public funds to private school voucher programs.

In the Senate, the bill would likely require 60 votes to pass. A similar bill was introduced in the House in 2023. It did not get a hearing.

What US ED does

Administers grants (like IDEA funds, and ESSA funds)

Helps enforce civil rights in public schools

Provides resources and guidance to local education agencies

Works on issues preK through college, including vocational and adult education

Administers federal student aid

If the department did go away, the laws it administers like ESSA and IDEA are still in place. They would be transferred to other departments.

It is unclear how oversight might work, though.

IDEA = *Individuals with Disabilities Education Act.*

ESSA = *Every Student Succeeds Act.*

CONCERN:

If the federal government stopped monitoring IDEA compliance, could those costs shift to the states?

IDEA is a “grant” law. It outlines what schools need to do to receive funding. The foundational civil rights laws are Section 504 of the Rehabilitative Act of 1973 and Americans with Disabilities Act, Title II

What happened & what does it mean?

STATE - Executive

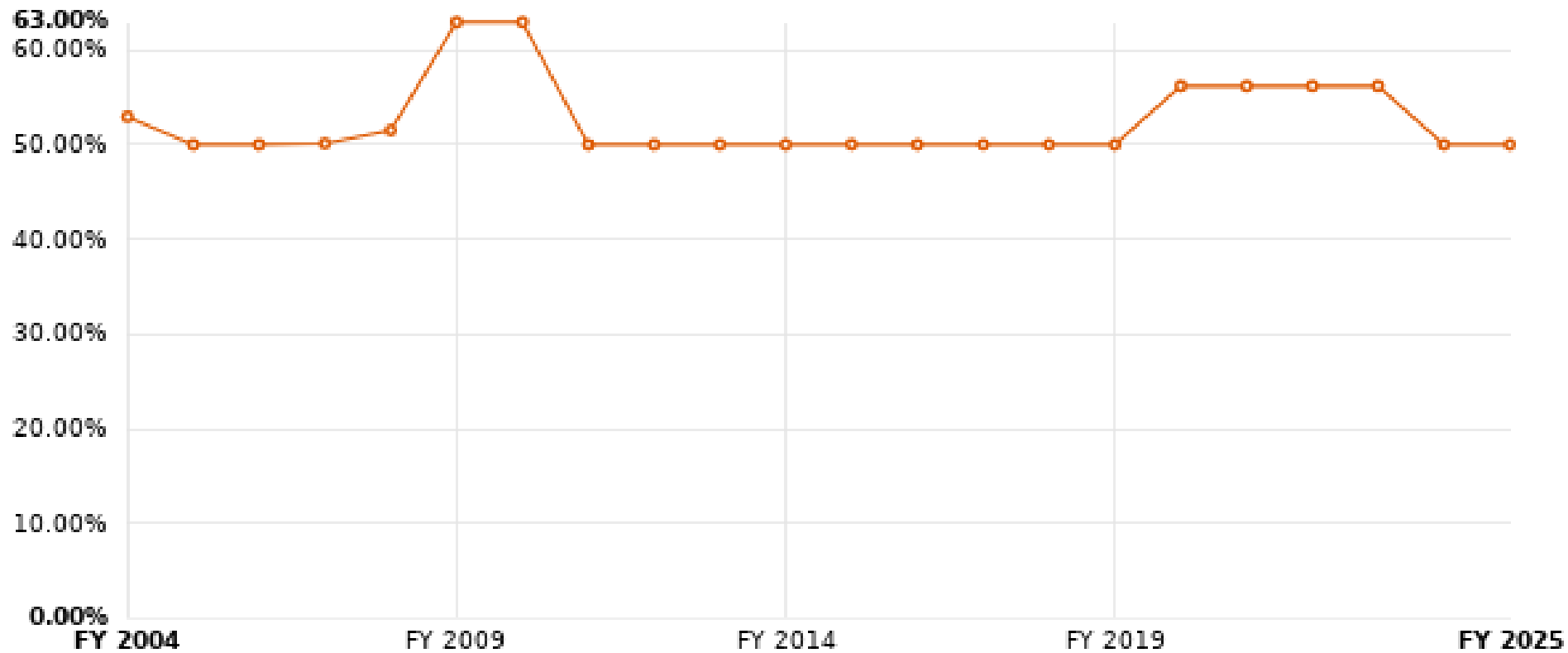
- We are getting a new governor
- He will be nominating new people to run agencies. We are not seeing a party change, though, so some agency leaders may remain.
- Policy preferences of the governor will change – for instance he wants to invest in bonuses to recruit police
- He has been neutral on raising more revenue
- We know there will be new secretaries at the Department of Children Youth & Families and Department of Social and Health Services

What happened & what does it mean?

STATE - Legislative

- Democrats control both chambers of the state legislature
- There is new leadership of the Senate
- The legislature is facing a budget challenge, already.
- Revenue is down while caseload costs are up
- There were expansions planned (like early learning)
- Part of the revenue issue is a readjustment of our federal Medicaid match
- It is looking like the state legislature will have to consider either cuts or new revenue

Federal Medical Assistance Percentage (FMAP) for Medicaid and Multiplier: FMAP Percentage, FY 2004 - FY 2025



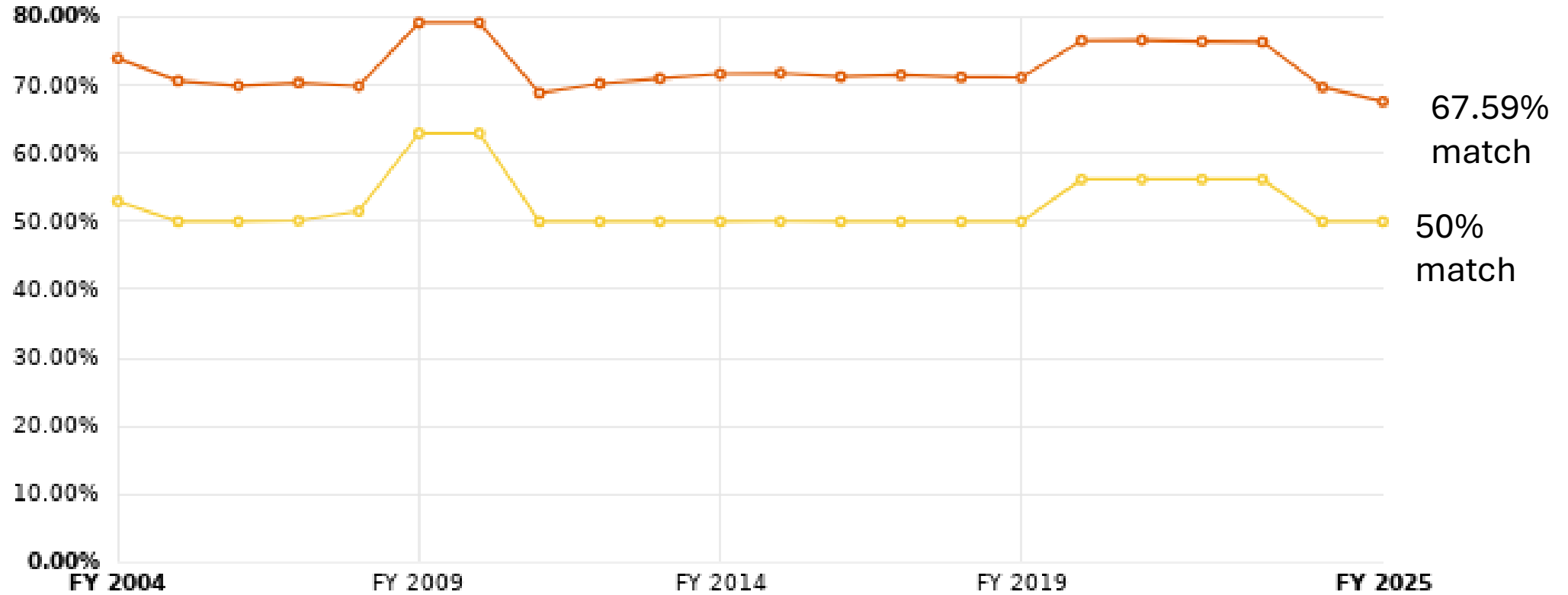
○ FMAP Percentage

■ Washington

SOURCE: KFF's State Health Facts.

Medicaid covers Apple Health and long-term services, as well as things like Apple Health for Homes. Without replacement revenue, the state will need to make decisions about scaling back Medicaid discretionary items – which include DDA community-based services and Apple Health for Homes. Also, things like adult dental care and adult therapies. The state can also change eligibility so fewer people are eligible for services or coverage.

Federal Medical Assistance Percentage (FMAP) for Medicaid and Multiplier: FMAP Percentage, FY 2004 - FY 2025

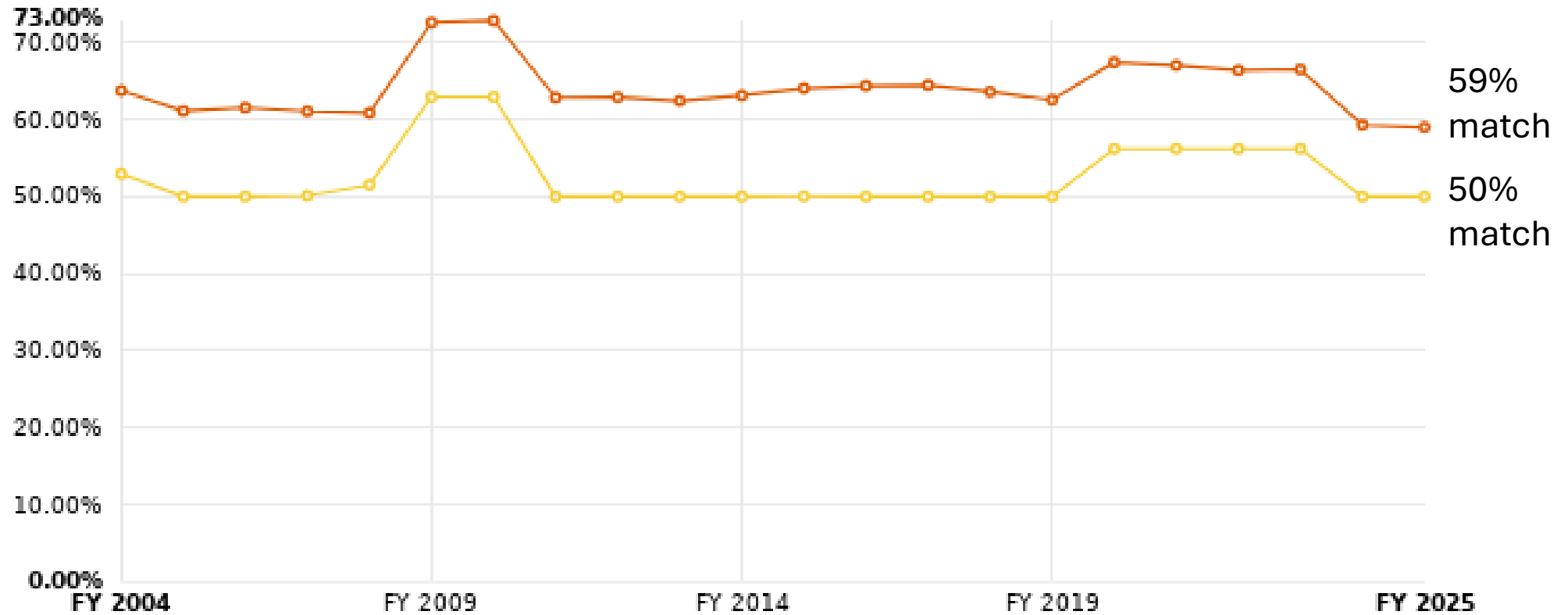


○ FMAP Percentage
■ Idaho ■ Washington

SOURCE: KFF's State Health Facts.

WA gets the lowest possible match because our per capita income is high. (The tech millionaire/billionaire boost). Here is how we compare to Idaho

Federal Medical Assistance Percentage (FMAP) for Medicaid and Multiplier: FMAP Percentage, FY 2004 - FY 2025



● FMAP Percentage
■ Oregon ■ Washington

SOURCE: KFF's State Health Facts.

Here is how we compare to Oregon.

Both Idaho and Oregon have also income taxes. We do not. We are very limited in our ability to tax wealth. We rely mostly on sales taxes.

DIVISION OF DUTIES

EXECUTIVE BRANCH, WASHINGTON STATE

The governor implements public policy and oversees the state agencies.*

The governor appoints secretaries to run the agencies; the Senate confirms.*

State agencies, in turn, write the rules that implement state laws.

You can find the current executive cabinet here:

<https://governor.wa.gov/office-governor/office/office/executive-cabinet>

** Our constitution requires an independently elected Superintendent of Public Instruction. The*

Office of the Superintendent of Public Instruction (OSPI) is not part of the governor's cabinet.

Other elected offices are also run independently: Lieutenant Governor; Treasurer, Secretary of State, Attorney General, Auditor; Commissioner of Public Lands

Washington also has a “small cabinet” of smaller offices and commissions that the governor oversees.

<https://governor.wa.gov/office-governor/office/office/small-cabinet>

DIVISION OF DUTIES

The governor also ...

Issues executive orders to state agencies.

Example: Tell agencies to [hire people with disabilities](#),

Or write [communications in plain language](#)

Or set up a task force. (Note: the governor cannot designate funds for a task force, just order them to be set up with existing funds)

You can find executive orders here,

<https://governor.wa.gov/office-governor/office/official-actions/executive-orders>

Issues proclamations

Example to declare a state of emergency or call the legislature to a special session

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Issues directives

These direct specific action, usually to the state agencies.

Example: Order a hiring freeze, fly flags at half mast

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DIVISION OF DUTIES

The governor also ...

Appoints judges if there are vacancies

Issues executive orders to state agencies.

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DIVISION OF DUTIES

The governor does not run, but has some influence over the judicial and legislative branches

- Judicial/courts. Judges are elected, but the governor appoints if there is a vacancy
- Legislative. The governor states policy and budget goals in the governor's proposed budgets, but legislators are not obligated to follow them

The governor can also veto legislation passed by the legislature.

- In Washington, the governor can veto the whole bill/budget, or a section of the bill/budget.
- The governor may sign bills into law but does not have to.

Generally, the executive branch has more leeway to act in emergency situations.

- For example, during the pandemic the governor issued orders and directives related to public health.
- If they want to do something outside their power (like redirect funding to a certain area), they can call a special session.

In Washington, the executive branch operates yearround. The state legislative branch is part-time.

DIVISION OF DUTIES

EXECUTIVE – LOCAL GOVERNMENT in WA

The executive branch at the local level varies.

Generally, counties have an executive director who is elected to run county government.

Some cities have elected mayors.

Some cities and towns may not have an elected mayor. They may use a council-manager form of government.

For instance, Bellevue's city council selects a fellow council member to serve as mayor. The position leads the council and acts as spokesperson, but the city hires a city manager to run things.

School boards also use a council-manager form of governance and operations. They set policy and budget and hire a district superintendent to run things.

DIVISION OF DUTIES

EXECUTIVE - FEDERAL

The president enforces the laws and represents the US

The president can:

Make treaties with the approval of the Senate

Veto bills, sign bills (note: does not have “line item veto”)

Represent our nation

Act as commander in chief during a war

Call out troops if we are attacked

Appoint agency leaders/cabinet members, subject to approval of US Senate

Appoint judges and justices, subject to approval of US Senate

Lead their political party

Appoint ambassadors

The president cannot:

Make laws (though the agencies create administrative rules to implement laws)

Declare war

Decide how to spend federal money

Interpret laws

DIVISION OF DUTIES

JUDICIAL

The courts interpret and apply the law.

WASHINGTON COURTS

In Washington state, judges and justices are elected.

If a vacancy occurs, the governor makes an appointment, to serve until the next election.

Supreme Court – Interprets the constitutionality of state laws

Court of Appeals – Handles appeals; some will continue to the Supreme Court

Superior Courts – Cover the 39 counties. Hear felony matters, real property rights, domestic relations, estate, mental illness, juvenile, and civil cases over \$75,000. In addition, superior courts hear appeals from district and municipal courts.

Limited jurisdiction courts

- District Courts – small claims, misdemeanors, civil claims under \$75,000
- Municipal Courts – Violations of city ordinances

State Attorney General – An elected position. Represents the state, its agencies, and state officials when acting in the official capacities.

DIVISION OF DUTIES

The courts interpret and apply the law.

FEDERAL COURTS

US judges and justices are appointed by the president, with approval by the US Senate.

Appointments are for life, though judges can be impeached and removed by Congress.

US Supreme Court – Interprets the constitutionality of federal laws.

US Circuit Courts – the first court of appeal. There are 12 circuit courts, each covers a specific region.

District Courts - also called trial courts. There are 94 district courts.

US Attorney – Primary prosecutor for the US government. The president appoints US attorneys for each district, with approval by the Senate.

DIVISION OF DUTIES

LEGISLATIVE BRANCH - STATE

At the state level, legislators serve part-time, but are supported by full-time staff.

Non-partisan staff support the committees

Partisan staff aid with policy creation that supports caucus goals. There are 4 formal caucuses.

- House Democrats
- House Republicans
- Senate Democrats
- Senate Republicans

Legislators set policy. They do this by making changes to the Revised Code of Washington (RCW) and by allocating money by passing the state budgets.

They do not run agencies, but they can choose how specific or broad to be in RCW.

For example: Legislators passed a broad definition of developmental disabilities to be used to determine who is eligible for DDA services. ([RCW 71A.10.020](#))

The agency (Department of Social and Health Services' Developmental Disability Administration, or DDA) then determined specifics.

- For instance, through rule, they said autistic people were only eligible if they also had an IQ score that showed an intellectual disability. This rule did not apply to people with cerebral palsy or other developmental disabilities.

DIVISION OF DUTIES

LEGISLATIVE BRANCH - STATE

The public protested this. The legislature responded by changing the RCW to say IQ scores could not be used to determine eligibility.

The agency changed the rule to remove IQ requirements. Instead, they now look at assessments of adaptive skills.

Similarly, the Office of the Superintendent of Public Instruction set up due process rules for special education appeals. They placed burden of proof on the parents. The public protested.

Advocates first requested a rule change, but OSPI refused. Then they requested a directive from the state legislature.

The state legislature agreed and changed the RCW to specify that school districts have the burden of proof. (RCW [28A.230.710](#).)

Generally, administrative rules must align with the RCW. But if the RCW is vague or broad, agencies may need to interpret as best they can.

In Washington, administrative rules are called the Washington Administrative Code (or WAC). Agencies must hold public hearings on proposed changes to the WAC, but no one votes on them. The agency leader makes the final call on WAC changes.

DIVISION OF DUTIES

LEGISLATIVE BRANCH - FEDERAL

Congress also has 2 chambers: the House and the Senate.

Congress passes bills and budgets.

The federal agencies then implement federal law (including writing rules).

The president can veto a bill. If that happens, Congress can try to override the veto.

The president does not have line item veto power. They can only veto the entire bill or budget.

States must follow federal law, and state agencies must make sure their administrative rules align with federal law and federal rules.

LEGISLATIVE BRANCH – LOCAL

These include city and county councils, and school boards. In Washington, these are all elected positions.

In the news

[With or Without ACA Repeal, ACA and Medicaid Cuts Are Looming](#)

[How Much More Would People Pay in Premiums if the ACA's Enhanced Subsidies Expired?](#)

[Follow the Money: How Medicaid Financing Works and What That Means for Proposals to Change it](#)

[Republicans Could End Up Owning A Jump In Health Care Premiums](#)

[If Trump gets rid of the US Department of Education, where does that leave Mississippi?](#)
(the issues name are the same for Washington)

[Medicaid Expansion is a Red and Blue State Issue](#)

[Gov.-elect Bob Ferguson's early approach to fix WA \\$10B budget deficit](#)

Resources

<https://leg.wa.gov/about-the-legislature/legislative-procedures/>

[https://fiscal.wa.gov/PublicationsAndReports/2023 Citizens Guide to Operating Budget.pdf](https://fiscal.wa.gov/PublicationsAndReports/2023%20Citizens%20Guide%20to%20Operating%20Budget.pdf)

<https://www.ed.gov/about/ed-overview/an-overview-of-the-us-department-of-education--pg-4>